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NOTES of the WEEK

Collecting Souvenirs

Most travellers like to go home with souvenirs of their journeys and derive pleasure from looking at them and displaying them to their friends. This is a harmless and agreeable practice provided the souvenirs are lawfully acquired, but unfortunately far too many people, otherwise respectable, are not over scrupulous in this matter.

The *Yorkshire Post* recently reported the prosecution of a holiday maker from overseas on a charge of stealing a silver spoon valued at £1 1s. from a well-known Lake District hotel.

The manageress of the hotel said : " Pilfering for souvenirs has got beyond description. Last year we lost sixty-five teaspoons. This year it is worse than ever. They take towels and cruets, and one lady even took a coffee-pot." The defendant, a young man, pleaded guilty and said he took the spoon as a souvenir. He was fined £2, the chairman of the bench observing that they realized that a good deal of pilfering was souvenir hunting.

Doubtless these souvenir hunters often act thoughtlessly, regarding the taking of an article of comparatively small value as harmless. They must know, however, that they are taking something that does not belong to them, to which they have no right and for which they do not pay, the taking being by stealth. In plain language it is stealing. The use of some euphemism for the plain word does not alter the nature of the act, and owners of property must be protected from what in the aggregate may amount to serious loss. We have even heard of passengers on liners saying to fellow passengers, of some small article of silver, " I am going to souvenir this," evidently quite unashamed of petty pilfering. Another form of souvenir hunting, which sometimes means real damage to valuable property, consists of cutting off a piece of tapestry or otherwise removing some part of an article to add to a collection of souvenirs. This is even more objectionable, or so it seems to us, than taking some small article without causing damage.

Evidence : Res Gestae

At p. 399, *ante*, we referred to a case in which a statement by a person who died before the action was brought was admitted in evidence under the *res gestae* rule.

By way of contrast, reference may be made to the case of *Teper v. Reginam* [1952] 2 All E.R. 447, in which the Judicial Committee of the Privy Council allowed an appeal against a conviction in British Guiana on the ground that at the trial, hearsay evidence had been wrongly admitted, the statement not being admissible as part of the *res gestae*. The charge was one of maliciously setting fire to a shop with intent to

defraud, and the prosecution called a witness who deposed that after hearing the fire alarm, he heard a woman's voice shouting : " Your place burning and you going away from the fire," and immediately afterwards he saw a car being driven away by a man resembling the appellant. The words were spoken some 220 yards from the site of the fire and about twenty-six minutes after the fire was started. The woman was not a witness at the trial.

In the course of delivering his opinion, Lord Normand stated the reasons why hearsay evidence is generally inadmissible and discussed its admissibility as part of the *res gestae*. Lord Normand said : " This, at least, may be said, that it is essential that the words sought to be proved by hearsay should be, if not absolutely contemporaneous with the action or event, at least so clearly associated with it, in time, place and circumstances, that they are part of the thing being done, and so an item or part of real evidence and not merely a reported statement . . . Identification is an act of the mind, and the primary evidence of what was passing in the mind of a man is his own testimony, where it can be obtained. It would be very dangerous to allow evidence to be given of a man's words and actions, in order to show by this extrinsic evidence that he identified the prisoner if he was capable of being called as a witness and was not called to prove by direct evidence that he had thus identified him."

Undoubtedly the right application of the rules as to *res gestae* which are said to owe their origin largely to Lord Mansfield, has proved of great value in helping courts to elicit the truth. Naturally, the courts will look with disapproval upon any undue extension of their application, particularly where the proceedings are criminal.

Detention Centre Rules

The Secretary of State has made the Detention Centre Rules (S.I. No. 1432) dated July 28 which came into force on July 31.

There are 118 rules occupying eighteen pages, and those who are interested will need to make a detailed study of them.

There are to be four types of centre : one for boys under seventeen, one for girls under seventeen, to be called junior centres ; and one for males over seventeen and one for females over seventeen, to be called senior centres. The Prison Commissioners have power to direct that a person be detained in an institution not appropriate to his age, having regard to his or her mental or physical development. A system of promotion from one grade to another by reason of good conduct is provided. A person ordered to be detained for more than a month can earn remission up to one sixth of his sentence.

The method of dealing with offences by inmates is laid down in rr. 32 and 33.

The Rules provide for a normal working week of forty-four hours. Rule 45 (1) provides: "In the case of inmates of compulsory school age, arrangements shall be made for their full time education within the normal working week." Physical training and organized games are to be considered as part of the working week. Rule 47 provides for payment to inmates at rates approved by the commissioners according to industry, and for inmates to be allowed to spend money earned, in ways approved by the commissioners.

The important question of after-care is dealt with in r. 58 which is as follows: "(1) It shall be the duty of the Board of Visitors to make such arrangements as are practicable for the after-care of inmates of the centre who are willing to accept after-care.

"(2) In discharging the said duty the Board of Visitors shall act in consultation with the warden and with a probation officer."

Questions of health, food and hygiene are all dealt with. As to clothing, inmates will wear clothing provided at the Centre and no other except as allowed by the prison commissioners. An appellant, while absent from the detention centre, may be allowed to wear his own clothing (rr. 83 and 86). Rules 99 to 118 deal with Boards of Visitors, appointed by the Secretary of State under s. 53 (2) of the Criminal Justice Act, 1948, their powers and duties.

Probation in the Isle of Ely

A point worth notice in the probation report of the County of the Isle of Ely combined probation area is the value of inquiries made by the probation officers, not only to the court, but also to those officers. The report says:

"It is widely recognized that social inquiries and reports by probation officers are of assistance to magistrates, chairmen of quarter sessions and judges of the High Court. What, perhaps, is sometimes overlooked is the immense value of these inquiries to the probation officer himself in enabling him to carry out his work successfully.

"Sound case-work must be based upon adequate knowledge, and a home surroundings inquiry, made at the direction of the court, is an ideal way in which to collect information about an offender which may throw light upon his character and the cause of his anti-social behaviour. More than this, it gives the probation officer a golden opportunity for creating a good relationship with the delinquent and with his immediate family circle, thus laying a sound foundation upon which to build after a court order has been made."

It is also pointed out that the facilities given to the courts by the Criminal Justice Act of 1948 for obtaining reports during a remand between a finding of guilt and the pronouncement of sentence, are an indication of the value of inquiries for the adult court no less than for the juvenile court.

The report is candid on the subject of reconciliation in matrimonial cases:

"The maintenance of happy and united homes is of vital importance for the welfare of the young. The probation officers recognise the privilege and the responsibility of their function as conciliators in matrimonial disputes and regret that in so small a proportion of cases their efforts succeed in bringing about a lasting reconciliation. Even so, the measure of success achieved is not insignificant."

It certainly must be admitted that it is difficult in many cases to be sure that husband and wife have been reconciled completely and are living happily together, because any sort of follow-up on a systematic basis is obviously impossible. Nevertheless, there is evidence to support the view that true reconciliation does result in a number of cases, and that, as this report says, the measure of success is not insignificant.

Two Things at Once

A young man who, while driving a car with one hand on the steering-wheel and the other holding a mouth-organ (or should it now be harmonica?) on which he was playing to while away the journey, was able to satisfy a bench of magistrates that he was not driving without due care and attention. He explained that he could always bring the other hand into action by the simple device of gripping the mouth-organ between his teeth and so being able to devote all his attention to the business of driving.

We hope that other devotees of this or any other musical instrument will not make a general practice of engaging in this form of music while you work, for there may not be many with the requisite dental equipment to enable them quickly to give all their attention to driving. At all events we may be grateful to this particular young man for inspiring one of those delightful occasional articles that entertain readers of *The Times*.

There are not many people who can do two things at once, whether it is a case of driving a car and making love to a passenger, arm round waist and head on shoulder, or writing letters while listening (or half listening) to evidence as an examining magistrate, although we have known magistrates who claimed to be able even to try a case while reading important documents or attending to other business. There was, a generation or two ago, a much beloved bishop who confessed that he composed most of his sermons while in the act of shaving, to which a candid friend replied that they sounded rather like that.

We must, however, make one exception in favour of the ladies. They appear quite able to knit one, purl two, knit two together, cast on or cast off, or whatever it is that has to be done in this mysterious art which produces so many pleasing results, while apparently absorbed in a book, and all this without dropping a stitch or missing a word of the story. But for most people in most situations the sound motto is one thing at a time.

West Riding Finances

The West Riding of Yorkshire ranks second in size and fifth in population amongst the counties in England and Wales. The services controlled and the expenditure incurred in their administration are correspondingly large, and the West Riding Treasurer, Mr. John Durham, O.B.E., F.S.A.A., is to be congratulated on being able to present the summarized financial results of the year's working to his council as early as July.

The informative booklet which he has published shows that revenue expenditure of the County Council amounted to £21,446,000 in 1951/52, an increase over the preceding year of £2,802,000. There are difficulties, however, in comparing one year's results with another. In previous years the financial relationship with the National Exchequer has been subject to frequent alteration and even although relative stability has now been attained in this matter the continuing fall in the value of money continues to vitiate comparisons of expenditure totals.

We can, however, usefully compare precept levels, and here the West Riding reflects a fairly common experience. For the three years to March 31, 1951, the total precept was 11s.; for 1951/52 and 1952/53 it rose to 12s. 6d. Furthermore in the first three years of this quinquennium the actual rates required were 10s. 2d., 10s. 10d., and 9s. 10d., and thus there was a surplus each year to add to balances. For 1951/52, however, the true rate required was 13s. 10d., and for 1952/53 is estimated to be 14s. 5d., against levies of 12s. 6d. in each case.

Loan debt at £5,553,000 was equal to £3 10s. 0d. per head of population and 13s. 5d. per pound of rateable value. In accordance with the usual pattern the major portion, amounting to £4,000,000, was on education account.

Investments of the County Council reached a nominal value of £3,772,000, having been purchased at a cost of £3,699,000 and having a market value of £3,005,000 at March 31, 1952. This kind of picture is common to practically every local authority: luckily they are not required to provide for depreciation out of the rates. It does however show that so called "safe" investments can be quite the reverse and adds cogency to the arguments of those who would widen the field of local authority investment.

County Alderman H. J. Bambridge, O.B.E., Chairman of the West Riding County Finance Committee, contributes a foreword to the separate booklet giving information about rates levied and general financial statistics of the West Riding county districts. He states that the general trend of district rates is upwards, although the rise is not great. The arithmetic average of the rates levied in the sixty-eight non-county boroughs and urban districts rose from 20s. 10d. to 21s. in 1952/53 and in the case of rural districts the arithmetic average of items common to all parishes increased from 17s. 7d. to 18s. 1d. Although rate poundages in the urban authorities show no great variation rates levied per head of population range from £10 12s. 4d. in Harrogate to £3 15s. 4d. in Cudworth.

Interesting housing statistics are quoted for each district. In the aggregate accumulated surpluses on the housing revenue accounts of the eighty-nine districts increased during the year 1950/51 by £42,000 to a total of £229,000. Loan charges at £2,532,000 comprised seventy-four per cent. of the total expenditure of £3,416,000, and subsidies from public funds amounted to £1,336,000 during the year.

Footpath Ways

From Kent comes news of 5,000 miles of footpaths and bridle paths, likely to be set out in a map of supposed rights of way being prepared under the authority of the county council. Local parish and rural councillors and hundreds of other volunteers are said to have walked along the routes of the paths, and drawn maps and written descriptions of their courses. These are being collected at the office of the county council, and a small staff is to be engaged exclusively for several months, editing them for incorporation into a survey which will cover most of Kent's 1,500 square miles. Kent may not be typical, but the example is a promising beginning. There are several causes for the loss of rural footpaths. Ploughing during the war has played its part: hundreds of paths have already vanished—many, such as those ploughed up on the Sussex Downs, gave access to beautiful scenery—in spite of the efforts of the Commons, Open Spaces, and Footpaths Preservation Society and the National Farmers' Union to bring to the notice of farmers the requirements of the National Parks and Access to the Countryside Act, 1949. During the war, when farmers had special ploughing privileges, some got into the habit of

ploughing paths without question, and it is not easy for them now to remember their obligations under the Act—some of them, indeed, may never have heard of it. The Society feels that the Ministries concerned could help in making farmers aware of these obligations, and we agree. So could local authorities, not merely county councils but district and parish councils. Probably, however, the greatest single cause of the loss of footpaths is neglect. Until the new movement for "rambling" set in, old paths had tended to be less used in the twentieth century than in the nineteenth, largely because of the bicycle and then the bus, which lead people to use roads instead of short cuts across the fields. The namby-pamby notion fostered by urban minded educationalists, that country children have legs incapable of use, and feet that cannot walk in country mud, has also tended to disuse of the footpath way. Yet another cause was reluctance of highway authorities to spend money upon footpaths—whether the highway authority was a district council or a county council. This was the reason for enacting s. 47 of the National Parks and Access to the Countryside Act, 1949. Our own correspondence, and information coming from other sources, show that this section was often not understood, and was not liked by some county councils and their officials, who would have preferred to see any statutory obligation in regard to footpaths put upon the minor local authorities, in rural districts. The section begins by affirming a rule of law which had tended to be overlaid by the exception brought about by s. 23 of the Highway Act, 1835, and makes it clear that highway authorities are under the same liability for the repair of all public paths (except those dedicated after the commencement of the Act otherwise than in pursuance of a public path agreement) as for the repair of any other highway which is repairable by the inhabitants at large. We gather that there has been correspondence about this between the County Councils Association and the Commons, Open Spaces, and Footpaths Preservation Society, but we do not think there can have been real doubt upon the existence of the liability. The new edition of *Pratt and Mackenzie* has an excellent note to s. 47. It is, however, one thing to recognize the liability, and another thing to find the money. The present shortage of funds prevents highway authorities from maintaining other highways in the condition in which they would like to maintain them. The recent statement of Lord Leathers in the House of Lords (about "rock bottom" in maintenance expenditure) may mean some improvement, or at least no deterioration, in regard to motor roads, but it remains to be seen what can be done to procure money (in the present financial stringency) for maintaining and improving footpaths.

Family Guidance in Canada

A movement known as the "Happy Homes Movement," initiated eight years ago by the University of Ottawa, acting in co-operation with the Young Christian Workers (a Roman Catholic Society) has met with success not only in Canada but in the United States and in other countries. The movement was first devised as a course of preparation for marriage in order to prevent domestic problems arising later. A Marriage Preparation Course initiated eight years ago has been followed by another course—oral or by correspondence—known as Fundamentals of Marriage. As a necessary sequel to its efforts the University is keeping in contact with the homes it has helped to establish and issues a monthly bulletin to them. This movement will be watched with interest, both here and in other countries, as if it succeeds to even a partial extent in preventing expenditure of time and money in trying to readjust home conditions after there has been a breakdown, and in dealing with juvenile delinquency, which is often the outcome, it will be well worth while.

THE CAMPSFIELD HOUSE DETENTION CENTRE

Section 18 of the Criminal Justice Act, 1948, came into force on April 18, 1949. The building position and the shortage of materials, amongst other considerations, have caused the opening of the first detention centre to be delayed for more than three years, but it now seems that one will be available in the near future, for young persons (boys) from courts in the Metropolitan Police District, the Home Counties, and the counties of Bedfordshire, Berkshire, Gloucestershire, Oxfordshire, Warwickshire (except Birmingham), Worcestershire and the Black Country portion of Staffordshire.

This centre is to be opened at Campsfield House, Kidlington, Oxfordshire. We have dealt shortly with the Detention Centre Rules, and we do not propose to devote space to them in this article. We are concerned to deal with the question of what use will be made of the centre by the juvenile courts concerned, for it will be mostly juvenile courts which will use this centre, although adult courts will be able to do so when they have dealt with a young person in pursuance of s. 46 of the Children and Young Persons Act, 1933, and found him guilty.

By s. 18 (4) of the Criminal Justice Act, 1948, when a court has been notified by the Secretary of State that a detention centre is available for young persons it may not make, in the cases of such young persons, orders under the Children and Young Persons Act, 1933, s. 54, for detention in a remand home. It does not follow, however, that every young person in whose case an order under s. 54 might have been made will necessarily be suitable for the very different régime at a detention centre.

Section 18 of the 1948 Act provides that where a court has power, or would for s. 17 have power, to impose imprisonment on persons over fourteen but under twenty-one an order for detention in a detention centre may be made if the appropriate notification has been received by the court from the Secretary of State. "Impose imprisonment" is defined as meaning either pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone.

Ordinarily detention is to be for a fixed period of three months, subject to remission up to one-sixth for good conduct and industry (see r. 26 of the Detention Centre Rules). This is subject to three qualifications:

1. If the maximum appropriate period of imprisonment is less than three months the period of detention ordered must not exceed, and ordinarily must equal, that maximum.
2. If the maximum appropriate term exceeds three months, and the court thinks, because of any special circumstance, that three months' detention is insufficient the period of detention may be increased, so long as it does not exceed either that maximum appropriate term or six months, whichever is the shorter.
3. If the offender is of compulsory school age and the court thinks that three months' detention (or the period fixed as in 1 above) would be excessive the period of detention ordered may be reduced, but not below one month.

The "disqualifications" of a previous sentence of imprisonment or of Borstal training are unlikely to affect young persons, but it is important to remember that by s. 18 (2) a court shall not order detention in a detention centre unless it has considered every other method (except imprisonment) by which the court might deal with the offender and thinks that none of these other methods is appropriate to the case. There is

also the general requirement in s. 44 of the Children and Young Persons Act, 1933, to have regard to the welfare of the juvenile, to take steps, where necessary, to remove him from undesirable surroundings, and to see that proper provision is made for his education and training.

As we understand it, the daily routine in the detention centre is likely to be strenuous and fairly exacting. A high standard of discipline will be set, and there will be no attempt to make the offender's stay there enjoyable. In other words it is intended to give a short, sharp lesson to those who are not considered to need long term treatment in an approved school, or taking away from unsuitable surroundings by a fit person order, but who nevertheless need teaching that the law cannot be defied with impunity, and that damaging and misappropriating other people's property, even in a spirit of adventure, are not to be tolerated without punishment.

The normal day will leave little time (or probably energy) for activities other than those making up the fixed time-table, and boys will need to be reasonably fit to carry out the programme planned. We feel that magistrates who are to be given the opportunity, in suitable cases, of sending boys to this centre want to take considerable trouble to understand what is involved. It will not be possible, we imagine, to cater for all sorts and conditions, and boys who are physically or mentally incapable of fitting into the planned activities of the centre are likely to be a severe handicap for the staff, whose time will need to be fully occupied with the normal routine. As we see it, with a strenuous programme carried out at a brisk speed, not only the physically unfit boy, but also the mentally dull boy is likely to be so handicapped as to be unable to benefit from or be suitable for a period of detention. There may, of course, be a difference between a boy who is mentally dull, and one who is backward educationally. The latter may be quite quick in the uptake, if he chooses to apply his mind to anything, but may dislike school and make no particular effort to learn, or have for other reasons not progressed as he should have done. Such a boy, if physically fit, might well benefit from a period in the detention centre, where a concentrated effort would be made to see that he did apply his mind to what was going on there.

We do not think that it is possible to be too precise, in advance, as to the methods of selecting those who will be likely to be suitable for Campsfield House. Experience will be needed before the courts can expect to use it to the fullest advantage. It would seem, therefore, that there will need to be close contact between the courts and those responsible for running the centre. No doubt visits will be arranged, although the extent to which these will occupy staff time which would be better devoted to those sent to the centre for detention must be considered, and justices must not expect to be able to visit just when and how they please.

The staff will endeavour to make the short period of detention which the Act permits as much a period of training as is possible. If they can teach some of those sent to them the rudiments of good manners and consideration for others something valuable will have been achieved, and those sent there may also come to appreciate that discipline has its benefits, and that it is possible to enjoy a life that is reasonably well regulated, controlled and purposeful. All too many of those who appear before our juvenile courts have no idea of filling their leisure time usefully, they wander (or loiter) aimlessly about the streets and find getting into mischief and crime the only ways of passing the

time. Those with reasonable homes often do not need to be sent away from their homes for any considerable period, but they do need bringing to their senses. It is to be hoped that the new detention centre may help in this by discipline and by getting such youngsters interested in something worth while. It occurs to us as a possibility that there might be a link-up between the authorities at the detention centre and suitable boys clubs in the offender's home town. If the detention centre could sow the seed, the club might help to enable it to germinate and to grow into a healthy plant.

We wish the new centre every success, and hope to learn

in due course something more of its activities and to hear of its progress. There is real need for any institution which can help to prevent our youngsters from adopting crime as a method of livelihood, or as a spare-time hobby. Accommodation will be available for about sixty boys, and with a constantly changing population the staff will have no easy time. It is probably not putting it too high to say that the success or failure of the scheme will depend on them, and they will need the co-operation and understanding of the courts concerned. The staff in their turn will doubtless appreciate the difficulties which the courts meet with in deciding what treatment is appropriate for some of their difficult cases.

THE ENGLISHMAN'S CASTLE

SOME REFLECTIONS ON THE QUESTION OF A PERSON'S RIGHT TO ENTER BY FORCE INTO THE PRIVATE HOME OF ANOTHER

By J. A. CÆSAR, Deputy Town Clerk, County Borough of Rochdale

" . . . None from henceforth make any entry into any lands and tenements, but in case where entry is given by the law; and in such case not with multitude of people, but only in peaceable and easy manner. And if any man from henceforth do to the contrary, and thereof be duly convict, he shall be punished by imprisonment . . . "

Thus provides the Forcible Entry Act, 1381 (5 Ric. 2 Stat. c. 7), as amended by the Statute Law Revision Act, 1948, which latter Act, it is interesting to note, received the Royal Assent on the same day as did the Gas Act, 1948.

For over five hundred years, therefore, the popular saying and belief that the Englishman's home is his castle has been supported by the statute law of this country.

That law and the common law have, it may be conceded, for many years provided a multitude of people with many and varied rights of entry into the lands and tenements of others; but it is with those rights which permit of lawful entry by force by one person into the private home of another that this article is primarily concerned, particularly having regard to recent decisions by the courts and even more recent comment and criticism in the national press and in the House of Commons.

As a preliminary, it is to be remembered that the question whether entry by one person upon the land of another is lawful or not has to be considered from the point of view both of the civil and of the criminal law; it is not, however, proposed in this article to embark upon a detailed analysis of the law of trespass on the one hand or of the crimes of burglary, housebreaking, forcible entry, malicious damage, and the like, on the other. Nevertheless, both as regards trespass and the statutory and common law misdemeanour of forcible entry, it is material briefly to consider the position where the person entering upon land of another claims to have done so in pursuance of some legal right.

In *Newton v. Harland* (1840) 1 Man. & G. 644, it was established that, in answer to a criminal charge of forcible entry, it is no defence to the person entering that he was entitled to possession of the land entered or that he had a legal right of entry thereto—unless, of course, in the latter case, the "legal right of entry" carried with it a right to enter by force and the force used was reasonable (in which event there could be no crime of forcible entry, in that the essential ingredient of "entering by force without due warrant of law" would be missing).

As to the "civil" aspect of the matter, it has been held that actions do not lie under the Forcible Entry Acts if the defendant had a right of entry against the plaintiff, but that they do lie if he had not such right; similarly, in an action for trespass at common law, the defendant has a good defence if he shows he had such a right. It follows, therefore, that if a person is entitled to the possession of certain land and he enters upon it and expels the occupier by force he might be indicted for forcible entry but cannot be sued for trespass to the land: *Hemmings v. Stoke Poges Golf Club* [1920] 1 K.B. 720—although he might be sued for trespass to the goods or person of the occupier if he caused damage or injury thereto: *Beddall v. Maitland* (1881) 17 Ch.D. 174.

Whilst on the subject of trespass to land, it is also to be remembered that an action may lie even though no actual damage is done to the land but that, where there is actual damage, it may nevertheless be a good defence to show that the damage was due to an involuntary and inevitable accident unaccompanied by negligence, or was reasonably necessary for the preservation of the property either of the person entering or of the person whose land was entered or for the preservation of life, or was committed in the lawful execution of legal process or the carrying out of lawful distress.

Furthermore, it is a good defence to an action of trespass to land that the defendant entered by the leave and licence of the plaintiff, and, although it has been held that a licence contained in a lease authorizing entry by force is void: *Edwick v. Hawkes* (1881) 18 Ch.D. 199, reasonable force may be used by a landlord in re-entering upon premises the delivery up of possession whereof on the determination of the lease is withheld by the tenant, or by a mortgagee in exercising his right of entry under the mortgage, in circumstances wherein he may incur no liability whatsoever in trespass (and, in fact, by virtue of his resultant possession of the land might be enabled successfully to maintain an action in trespass to land against the person whom he thus dispossesses) although, as pointed out above, he may render himself criminally liable under the Forcible Entry Acts. Generally, however, a right of entry arising under contract can be lawfully exercised only without violence and in a reasonable manner; and this general principle also applies in the case, for example, of a personal representative exercising his statutory right to enter his testator's house to remove the testator's personal effects, or of a trustee in bankruptcy entering the land

and removing the goods of the bankrupt person, or of a person entering his neighbour's land to abate a nuisance or to lop off and remove such of the branches of his trees as overhang that neighbour's land, and so on.

What, though, of the rights of entry arising otherwise than by virtue of the contractual and other special relationships briefly referred to immediately above—the rights, that is, of policemen and "law officers" on the one hand and of local, regional, and central government officers, officials of public utility undertakings and nationalized bodies, and other (largely "un-uniformed") representatives of "officialdom" on the other?

A constable may break open the outer door of a house to prevent a felony being committed: *Handcock v. Baker* (1800), 2 Bos. & P. 260, or to arrest a suspected felon: see *Smith v. Shirley* (1846), 3 C.B. 142. If he hears an affray in a house he may break in and suppress it: 1 *Hawk. P.C.* c. 63, s. 16; 2 *Hawk. P.C.* c. 14, and if an affray occurs in his presence and the persons concerned therein abscond and run into a house he may break in to arrest them if he does so in the course of immediate pursuit: 2 *Hawk. P.C.* c. 14, s. 8; *R. v. Marsden* (1868) L.R. 1 C.C.R. 131; and where a person escapes from lawful arrest and shelters in a house a constable may break in and retake him whatever the cause of arrest may have been, but if it is not on fresh pursuit a magistrate's warrant should be obtained (1 *East. P.C.* 324); if the constable holds a warrant to arrest a particular person he may, after demanding and being refused admittance to the house wherein that person is, break open the doors of that house to effect the arrest of that person: *Fost. 136*, 320; *Burdett v. Abbott* (1811), 14 East, 1, at pp. 156, 162. If the constable holds a search warrant, and if that warrant so authorizes him, he may use force in effecting an entry into the premises to be searched, but, if the premises be private premises, entry therein by force should not be effected without due notice being given and admission demanded and refused (*Fost. 320*).

The police, in other words, in the execution of their normal duty, by no means have the wide powers that a large section of the public imagine them to have, and the law has imposed numerous safeguards designed to protect the privacy of the Englishman's home from the very persons whom the law entrusts with the duty of endeavouring to ensure that the law is not broken. Just as it is only in certain cases that a policeman is legally justified in arresting a person without a warrant issued by a justice of the peace, so is it that (except in the special circumstances touched upon above) he is not legally entitled to search private premises without a search warrant, and that warrant also (with few exceptions) must be issued by a magistrate; even where a search warrant has been obtained it cannot authorize entry by force unless the statute authorizing the issue of the warrant also authorizes the use of force in cases where admittance to the premises in question is refused or resistance to the entry thereto is made; the statute authorizing the issue of the warrant may even limit the time of day wherein the warrant is to be executed. Finally, where a constable has no legal authority to enter private premises and has entered by permission or invitation of the occupier, he is not entitled to remain on those premises when asked to leave by the occupier, unless, for example, he has reasonable grounds for believing that a breach of the peace would take place were he not there: *Thomas v. Sawkins* [1935] 2 K.B. 249. He would not be entitled to remain merely for the purpose of making inquiries which could not result in an arrest: *Davis v. Lisle* [1936] 2 K.B. 434.

Turning now to the execution of legal process and the powers of persons other than policemen, it is normally the sheriff who has to see to it that the writs of execution on judgments and orders of the Supreme Court are carried into effect, but he can do

only what those writs authorize him to do and he is liable, civilly and possibly criminally, if he exceeds the authority conferred upon him by those writs. He is justified in breaking open the outer door of a dwellinghouse in the execution of any process only in exceptional cases—generally, his powers stop short of a power to effect entry by force, i.e., he must not break an outer door but may enter through an unsecured window or an unfastened door. (See 30 *Halsbury* 122-6). Similarly a bailiff in the execution of lawful distress cannot effect entry by force, although he may, like the sheriff, forcibly re-enter where, having once entered lawfully and not having abandoned that entry, he is forcibly expelled by the occupier or voluntarily and temporarily leaves the premises for an unavoidable purpose and returns to find the door locked against him (10 *Halsbury* 494-7).

The general principle, therefore, seems to be that even where there is a statutory right of entry the right can be exercised by force only in the most exceptional circumstances and then only after admission has been demanded and refused, and that further there must, in addition to the "authority" from which the right of entry derives, be a further "authority"—taken on the decision not of the person seeking to exercise the right but of a magistrate or some third person or persons acting in a judicial or quasi-judicial capacity and not merely in a purely administrative or executive one—that the use of force in the exercise of that right is legally permissible.

This is certainly the underlying principle as regards the exercise of the numerous rights of entry conferred by statute on various officials of a local authority. Without seeking to enumerate the many persons having such a right or the many purposes for which the right is conferred it should be sufficient to refer merely to the powers of entry of "authorized officers" under and for the purposes of the Public Health Act, 1936. Section 287 of that Act provides that certain specified officers have, for the purposes specified therein, "a right to enter any premises at all reasonable hours" but that, with certain exceptions which are not material to the present consideration, "admission . . . shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier." (And here, as a further indication of the way in which the courts jealously safeguard the rights of the subject and insist on the statute law being observed to the letter, the effect of a local authority's omitting to give such notice in precise terms was the subject of an interesting decision in the Queen's Bench Division in the recent case of *Stroud v. Bradbury* [1952] 2 All E.R. 76.) Subsection (2) of that section, however, makes it clear that if the right of entry cannot be exercised "in peaceable and easy manner" it cannot be exercised at all unless a justice's warrant is obtained. To obtain such a warrant it must be shown on sworn information in writing "(a) that admission to [the] premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry, and (b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid." Once the warrant is issued it may authorize entry "if need be by force," but only such force as is reasonably necessary may lawfully be used and on leaving any unoccupied premises which the "authorized officer" has entered by virtue of the warrant he "shall leave them as effectually secured against trespassers as he found them." The warrant, however, is not issuable "unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry." Where powers of entry for special

purposes are sought by local authorities by means of private legislation it is most unusual for Parliament to agree to confer them unless the measure incorporates the provisions of s. 287 of the Public Health Act, 1936, or contains provisions of similar import.

As indicated above, the writer does not propose to detail all the different powers of entry conferred upon local government officers nor the like powers conferred on officials of central and regional government departments. The reply of the present Chancellor of the Exchequer to a question asked in the Commons on June 17, 1952, to the effect that there were 6,128 departmental officials authorized to carry out inspections and investigations in private houses and premises without a search warrant is illuminating. Those who, in the national press and even in the House itself, saw fit to speak of those officers of the Crown as "these snoopers" probably derived some satisfaction from the Chancellor's statement that he did not think there had been a satisfactory reduction in the number, and that that was why "we are looking into the matter." That there was need to look into the matter would seem to be clear if one subscribed to the views expressed in some sections of the national press following the reported remarks of the West London magistrate, some six weeks before the Chancellor's statement, in dismissing certain summonses concerning alleged food rationing offences. This aspect of the matter is, however, outside the scope of this article.

Before leaving the question of the powers of local authority officers, however, it is interesting to note that a member of a fire brigade authorized for the purpose by the fire authority has, for the purposes of s. 1 (1) (d) of the Fire Services Act, 1947, only the like powers of entry as are conferred on authorized officers of councils by s. 287 of the Act of 1936. Section 30 of the Act of 1947, however, expressly empowers a fireman or a policeman, without the consent of the owner or occupier, to "enter and if necessary break into any premises . . . in which a fire has or is reasonably believed to have broken out, or any premises . . . which it is necessary to enter for the purpose of extinguishing a fire or of protecting the premises . . . and . . . do all such things as he may deem necessary for extinguishing the fire or for protecting from fire . . . any such premises . . . or for rescuing any person or property therein."

Furthermore, the power to enter premises conferred upon authorized officers of water undertakers by the Water Act, 1945, sch. 3, s. 85, is in terms which are substantially similar to those of s. 287 of the Public Health Act, 1936, but as regards the powers of entry conferred upon officers authorized by an area gas board by the Gas Act, 1948, sch. 3, ss. 34-36, the position is by no means the same—there is no requirement to obtain a justice's warrant before effecting entry by force and, in fact, the Court of Appeal in *Grove v. Eastern Gas Board* [1951] 2 All E.R. 1051, upheld a decision of Hilbery, J., that the powers conferred by para. 34 (1) of sch. 3 to that Act, which paragraph should be read in conjunction with para. 36, include, where necessary, a power (not merely a right to seek power from the justices) of forcible entry.

Now, without in any way wishing to criticize or provoke criticism of a measure the general purport of which permits of consideration from a political angle, the writer feels that it might reasonably be suggested that, purely from the point of view of the protection of the rights of liberty of the subject, any departure or continued departure by legislation from the hitherto safe-guarded principle above referred to is a matter for the most careful deliberation—the more so, perhaps, when it appears that an un-uniformed official engaged in the reading of gas meters has, in certain respects, wider powers of entry by

force into private premises than has a policeman engaged in the preservation of the peace and the prevention and detection of crime and the apprehension of offenders, or, to take only one further example, a medical officer of health or sanitary inspector engaged in the preservation of the public health and the prevention and cure of disease.

NEW COMMISSIONS

BRISTOL CITY

Harold Aljenia Cann, 24, New Walls Road, Bristol, 4.
Peter Gordon Cardew, Westhanger, Cleeve, nr. Bristol.
Arthur Foley Cottrell, 2, Cleeve Lawns, Downend, nr. Bristol.
William George Cozens, 19, Dacie Road, Lawrence Hill, Bristol, 5.
Dr. Lettice Priscilla FitzGibbon, Riverwood House, Frenchay, Bristol.
William Robert Gibbons, Rostrevor, The Glen, Saltford, nr. Bristol.
Brigadier Arthur Leslie Walter Newth, C.B.E., D.S.O., Amercombe, Pensford, nr. Bristol.
Cedric Hood Pritchard, Greenacre, Mariners Drive, Stoke Bishop, Bristol.
Edwin Roberts, 30, Rosling Road, Horfield, Bristol, 7.
Claude Croxton-Smith, 18, Hughenden Road, Clifton, Bristol, 8.
Mrs. Florence May Vickery, Broom Villa, Ham Lane, Stapleton, Bristol.

COLCHESTER BOROUGH

Jack Andrews, 29, Recreation Road, Colchester.
Ernest Heard, The Chase, Straight Road, Lexden, Colchester.
Maurice Arthur Rossiter, 18, Fitzwaller Road, Colchester.
Mrs. Evelyn Alice Thom, The Cannons, Layer Road, Colchester.
George Thomas Wright, M.B.E., Moorlands, Gt. Bentley, Essex.

SOUTHAMPTON COUNTY

John Bowen, The Cottage, West Common, Blackfield, Fawley.
Robert Ling Charlton, Oakleigh, St. John's Road, Cove, Farnborough.
Gerald Edward Coke, Jenky Place, Bentley.
Thomas James Duke, Curdridge Hill, Botley.
Burt Walter Edgecock, 27, Northbrook Road, Aldershot.
Captain John Annesley Grindle, R.N. (Retd.), Lark Hill, Portchester.
Group Captain Thomas Humble, Wymersaux, Hillside Road, Aldershot.
William Ernest John Lunn, The Cabin, Station Road, Sway.
Neil Malcolm Rowland Moody, Fish House, Durley.
Herbert Hewitt Pool, Manipur, Diorben Avenue, Fleet.
Edmund Alfred Poole, Sandlemore Sandleheath, Fordingbridge.
Mrs. Eileen Mathilda Wallis Power, Culmore, Highcliff, Christchurch.
William Rathbone, North Waltham Farm, Basingstoke.
Sir Hugh Houston Smiley, Bart., Froyle House, Alton.
Frank Alleyne Stockdale, Hydegate House, Long Sutton, nr. Basingstoke.
Rear-Admiral Aubrey John Wheeler, C.B., Southfield, 39, Beach Road, Emsworth.
William Ingham Whitaker, Pylewell Home Farm, Lymington.

YORKS (EAST RIDING) COUNTY

Arthur Creagh Gibson, Welham Farm, Norton.
Francis Frederick Johnson, 16, High Street, Bridlington.
Ernest Wood Putman, Gransmoor.
Harold Walsh, School House, Leavening, Malton.

NOTICES

The next court of quarter sessions for the borough of Shrewsbury will be held on Tuesday, September 9, 1952, at the Shirehall, Shrewsbury, at 11 a.m.

The next court of quarter sessions for the borough of Grantham will be held on Wednesday, September 10, 1952, at 11 a.m.

The next court of quarter sessions for the borough of Southend-on-Sea will be held on Monday, September 22, 1952.

The next court of quarter sessions for Cheshire will be held at the Sessions House, Knutsford, on Monday, September 29, 1952.

CHIEF CONSTABLES' ANNUAL REPORTS, 1951

40. GREAT YARMOUTH

The population of the county borough is 51,105 and the area 3,598 acres. The authorized establishment is 100, and the actual at the end of 1951 ninety-four. During the year, an increase of eight constables was approved by the Home Office. Five men were appointed and three left, one to go on pension. Two policewomen are attached to the force and ten civilians. The complement of special constables is 196 men and four women, at the end of the year eighty-seven men and two women had been recruited.

Indictable offences recorded total 441, a decrease of fifty-one from the year before. The value of property involved was £6,954, and that recovered £2,865. Sixty-three per cent. of the crimes were detected compared with sixty-seven in 1951. Ninety-eight juveniles were dealt with for indictable crimes, a decrease of nineteen.

There were 566 road accidents causing two deaths and injuries to 216 people; in 1950 there were two fatalities and 224 injured.

Licensed houses in Yarmouth number 210, and there are eleven registered clubs. Seventeen men and three women were charged with drunkenness, nine less than the year before.

41. SHEFFIELD

The population of the city is 513,800, and the area 39,598 acres. The establishment of the force is 780 and there are ninety vacancies. Sixteen policewomen are included in the actual strength. Sixty-six civilians are engaged with the force. The report records: "During 1951, there was a net decrease of five in the actual strength . . . Total recruitment during the year has fallen short of expectations and was particularly disappointing during the period January to July . . . Following the implementation of the wage increase recommended by Sir Malcolm Trustram Eve and his assessors, there was a marked increase in the number of applicants . . . A further most important result was the considerable reduction in the number of resignations of probationer constables . . ."

There are 210 special constables so far recruited of the authorized complement of 1,560. "Every effort has been made to increase the actual strength of the corps but results have again been disappointing."

On housing the chief constable reports: "Although the problem of satisfactorily housing married members continues to cause a great deal of concern some progress has been made of the original scheme for the erection of twenty houses, eighteen are now occupied and the remaining two will be completed in the near future." In regard to a second scheme for ten houses consent has so far been secured for four and work has begun. Twelve married men live in corporation owned houses which are rented to the police authority. At the close of 1951, ninety-five married men were unsatisfactorily housed and in forty-seven cases requirements were urgent.

Indictable offences for the year totalled 5,304, of which 2,648 were detected; that is an increase of 896 offences on the year before. "The trend of decreasing offences against property has been maintained. There has been a marked increase under the heading of minor larcenies . . ." Forty-nine per cent. were detected; in 1950 the figure was fifty-two per cent. Juveniles prosecuted for crime increased from 339 to 430, whilst the number of offences attributed to them increased from 605 to 750. The value of property concerned in indictable offences was £63,819 of which £15,726 was recovered; the year before the respective figures were: £54,715 and £14,843.

An attendance centre was opened in Sheffield in April last. The Secretary of State may authorize the establishment of attendance centres on local authority or police premises for young persons between twelve and twenty-one years old. A court may order attendance at the centre for not exceeding twelve hours altogether and not more than three hours in one day. The Secretary of State, it seems, does not intend to include those between the ages of seventeen and twenty-one for attendance at present, or to include girls. Arrangements have been made to segregate boys in the twelve to fourteen age group and those between fifteen and sixteen, the two groups attend on alternate Saturday afternoons. They do drill, physical training, gardening, wood-chopping and handicrafts. Rigid discipline is imposed during these attendances.

Five thousand eight hundred road accidents were reported during 1951 against 5,257 in 1950; forty-seven deaths resulted and 2,088 were injured: an increase of three fatalities and 224 injuries.

There are 1,194 premises licensed to sell intoxicants and 134 registered clubs.

Prosecutions for drunkenness involved 321 men and seventeen women; seventy more than in 1950.

42. CITY OF LONDON

The population of the city is 4,830 by night—436,721 by day and the area 677 acres. The authorized strength is 982 and the actual 616. Thirty-four men joined the force last year and eighty-one left; in the years 1950-49-48-47 the intake shortages were respectively: thirty-two and fifty-eight; thirty-two and sixty-seven; forty-two and fifty-four; forty-nine and eighty-five. Actual strength has decreased from 725 in 1947 to 616 last year. The report comments: ". . . in view of the fact that approximately one-third of the city police area is void and devastated and in the interests of economy, I do not propose to recruit beyond the figure 750, or at the most 800, until the re-building of the city is recommenced."

In September, 1951, the Commissioner was asked to visit and advise the Gold Coast Government on the future re-organization of the constabulary "I submitted my report to the Gold Coast Government before I left" says Colonel Young, "and this is being formally considered early in 1952. My report proposes fundamental changes in the status of the Colonial Police, and if it is accepted it is likely to be the forerunner of similar changes taking place in other Colonies."

A new duty system was introduced in March, 1951, to improve the present allocation of man power and to provide leave at weekends to more members of the force. The concentration of police strength varies throughout the twenty-four hours to correspond with the police-duty-crime risk.

Special constables number 252, fifteen less than last year. Forty members retired and twenty-five joined during the year.

Indictable offences numbered 2,506 resulting in the arrest of 479 people and forty-seven being summoned. The year before there were 2,257 crimes, 375 people arrested and twenty-eight summoned. The value of the property involved was £113,803 of which £42,238 was recovered; in 1950 the corresponding figures were: £121,794 and £52,462. Juveniles dealt with for crime (fifty-one) and other offences totalled 111, against 103, for crime (thirty-two), and other offences. Thirty-six per cent. of all indictable offences were detected compared with twenty-two in 1950.

The number of people killed in road accidents was five and 411 were injured ; the year before the figures were 306 and nine killed.

The Commissioner comments : " I have as a matter of policy avoided prosecution wherever possible, and the main purpose of the police has been to obtain co-operation from the public by advice and, where necessary, admonition rather than by prosecution. The continued use of warning notices left on wind screens of cars has been, I am sure, appreciated by motorists, many of whom have written to me to say that in future they will do their best to help rather than hinder the work of the police." That is commendable forbearance by the Commissioner and agreeable response by the public, which should promote excellent relationship between police and public in the metropolis. We wonder if the same sentiments exist equally throughout the country ?

Regarding the motorist, Colonel Young says : " I have every sympathy with the business motorist who has to bring his car into the city police area. Such a person may anticipate that unless his vehicle is left at a point where dangerous and serious obstruction is caused, he will not be prosecuted by the city police, provided his vehicle is not left for an undue length of time." We feel, too, that sounds large-hearted and generous, coming from the police in the very centre of the Empire. The public should not abuse so magnanimous a gesture.

43. SALFORD

The population of the city is 223,438 and the area 5,202 acres. The establishment of the force is 331 and the actual number engaged at the end of 1951 was 287, including eighteen police-women. " The number of applicants from men wanting to join this force slumped alarmingly during the year. Only 115 applications were submitted and of this figure only fifty were received in the first seven months of the year. After the award of the increase in pay in August, the average number of applicants per month rose from seven to thirteen . . . " Twenty-seven men

and women left the force against twenty-six in the previous year. The team policing system operates in Salford.

Indictable offences totalled 2,287, an increase of 351 on 1950, and sixty-six *per cent.* were detected compared with sixty-three *per cent.* in 1950. Juveniles dealt with numbered 355, an increase of 166.

The complement of special constables is sixty-one out of an authorized strength of 236. Early in April, a team of three regular policemen and three Alsatian dogs commenced a course of training with a view of using the dogs for police work. The training covers obedience, tracking, searching, pursuit and capture, and the tackling and capture of an armed criminal.

There are 670 licensed premises in Salford, and forty-three registered clubs.

44. TYNEMOUTH

The population of the county borough is 66,050 and the area 4,684 acres. The authorized establishment of the force is 107 and at the end of 1951 there was one vacancy. Three probationers were appointed. The actual strength of the special constabulary is 144, including four women.

Indictable offences totalled 662 compared with 624 the year before. The value of the property concerned was £6,525 and that recovered £1,172. Sixty-five *per cent.* of the crimes were detected. Juveniles before the court increased from ninety-three last year to 145 ; fourteen children were committed to approved schools.

Road accidents caused nine deaths and injuries to 198 people. The year before there were ten fatalities and 248 injuries. There are seventeen road wardens engaged in the supervision of children at school crossings where it is not possible to provide a police officer.

There are 147 licensed premises in Tynemouth and thirty registered clubs. One hundred and seventy-two males, including one juvenile, and forty women were prosecuted for drunkenness, an increase of forty-eight. Eight people were charged with driving whilst under the influence of drink.

MISCELLANEOUS INFORMATION

CENTRAL LAND BOARD REPORT

The Report of the Central Land Board for the financial year ended March 31, 1952, has been published.

By the end of the year the Valuation Office had issued 758,395 statements of proposed development value in respect of claims on the £300 million under the Town and Country Planning Act, 1947. This was ninety-three *per cent.* of the total to be issued. The Board had issued or prepared 640,816 determinations of development value. Of these 290,816 were *nil*, 9,430 were *de minimis*, and the remaining 340,570 represented aggregate development values of £204,707,177. These figures included, for Scotland, 61,303 *nil* claims, 4,136 *de minimis*, and 12,180 representing £5,211,765 in development values.

During the year there were 776 notices of appeal against the Board's determinations, making a total of 1,064. Of these 817 were disposed of after further negotiation, and twenty were heard by the Lands Tribunal. In Scotland there were eighty-one applications for the appointment of an arbiter. Forty-six were disposed of after further negotiation and four appeals were heard.

A total of £799,980 was paid in respect of 2,879 claims under s. 59 in respect of certain properties the subject of a value payment under the War Damage Act, 1943, and £3,177 under s. 56 of the Scottish Act.

The Board paid £1,847,690 to claimants who had incurred professional fees in connexion with their claims.

Development charges received in cash amounted to £3,875,522 of which £2,319,428 was for housing development. A further £1,529,462 was set-off against claims by builders and owners of single house plots. In Scotland £214,058 was received, and £30,964 set-off against claims.

Of development by local authorities, the Board report that those who have bought land for development since 1948 are rarely paying more, and in many cases are paying considerably less, in purchase price

and development charge than if the Town and Country Planning Act had not been passed.

The Board say there is a good deal of land still available in various parts of the country which is unaffected by development charge. When development charge is payable, the buyer of land comes to terms on the basis that in present circumstances he is normally anxious to build and the seller wants as much as he can get. Many have disregarded the Board's advice not to pay building value for land if they will have to pay development charge in addition, presumably because they were prepared to pay an excessive price for a particular piece of land which they wanted urgently.

Most sales have taken place somewhere between existing use value and building value, or at building value. When it is at building value there is usually—though not always—an assignment to the buyer of the seller's claim on the £300 million, giving the buyer an asset to set-off against his development charge.

The Board say it is clear that the estimated total of all claims is a good deal smaller than was expected by claimants.

The Board refer to the procedure by which local housing authorities can buy land and resell it to private developers, either at existing use value or inclusive of development charge. They add : " It seems that this procedure goes a long way to meet the needs of those who have been given, or promised, licences to build." Some sixty authorities in England and Wales have adopted this procedure, and at least fifty others propose to do so.

Ten Compulsory Purchase Orders were made, including one in Wales and one in Scotland, bringing the total to thirty-five. The Board say the effect of their powers of compulsory purchase is apparent from the fact that some owners have agreed as a result of the Board's intervention to sell their land direct to the Board's applicants, either at existing use value or at a price inclusive of development charge, for which the owner takes responsibility.

LAW AND PENALTIES OTHER IN MAGISTERIAL AND COURTS

No. 74

MISAPPLIED KNOWLEDGE

A thirty-two year old post office official appeared before Mr. Justice Jones at Birmingham Assizes last month, to answer an indictment containing two counts for issuing money orders with fraudulent intent, contrary to s. 58 (1) of the Post Office Act, 1908, and two counts for obtaining money under a forged instrument, contrary to s. 7 of the Forgery Act, 1913.

Mr. Fitzwalter Butler, who prosecuted in the case, and to whom the writer is greatly indebted for this report, told the court that the case was an extremely serious one because offences of the kind charged could only have been committed by a post office official with expert knowledge. "In addition," said Mr. Fitzwalter Butler, "this man had been recently attending a course for acting overseers in which they were specially instructed in the detection of this type of fraud, and there seems to be little doubt that he used the inside knowledge he obtained from attending that course to commit these offences."

The defendant, who pleaded guilty to the charges, was a telegraphist at Ludlow Post Office, and telephoned money orders made payable to fictitious names at various post offices in the Midlands. On one occasion he hired a taxi to collect the money from the various post offices at which he had made the money orders payable. A police constable stated that defendant, a married man with four children, had spent the whole of the money not recovered on his home. He had returned £75 to the Post Office Investigation Department, and another £94 was recovered when he was arrested.

For the defendant it was stated that he was in debt to the extent of £60 for household goods when the offences commenced and that he had spent most of the money on household linen, a pram, and baby clothes for his fourth child. Defendant had also bought a television set and a £60 violin as he was an accomplished musician.

The defendant, who asked for forty-one other offences to be taken into consideration, of which twenty related to issuing money orders as above, and nineteen of obtaining money under forged instruments as above, was sentenced to three years' imprisonment. The total sum obtained by him was approximately £962.

COMMENT

Section 58 of the Post Office Act, 1908, provides that any officer granting or issuing any money order with a fraudulent intent may be sentenced to imprisonment for seven years. Penalties which may be inflicted upon dishonest Post Office employees are, as one would expect, extremely heavy, and s. 55 of the Act enacts that an officer of the Post Office who steals a postal packet in course of post containing money or valuable security may suffer penal servitude for life.

Section 7 of the Forgery Act, 1913, provides for a maximum sentence of fourteen years' imprisonment in the case of conviction, but s. 18 of the Criminal Justice Act, 1925, permits offences of obtaining money under a forged instrument to be tried at quarter sessions where the value of the property does not exceed £20.

Section 24 of the same Act enables similar offences to be tried summarily with the accused's consent. R.L.H.

No. 75

AN UNLICENSED PETROL TANK

A limited company of high local repute, carrying on business in Oxford, was charged on July 15, 1952, at Oxford Magistrates' Court with keeping a certain quantity of petroleum spirit on premises of which the company was occupier, without having a licence granted pursuant to the Petroleum (Consolidation) Act, 1928, contrary to s. 1 of that Act.

For the prosecution, it was stated that when an inspector visited the yard at the rear of the defendant company's premises in June, he found a petrol pump connected with a 500 gallon capacity underground tank. The delivery line was leaking at one point, and the petrol was being caught in a bucket. There were two inches of petrol in the bucket. The hose-pipe was perished at its junction with the delivery line, and the drips at this point were being collected into a milk bottle. The screw cap to the filler pipe was not vapour tight, and gauze, customarily fitted as a precaution against a "flash back," had perished and provided no safety device at all.

The prosecution pointed out that one of the reasons for compelling persons desirous of storing petrol to obtain a licence was to ensure that premises so licensed could be inspected by an authorized officer and standards of storage enforced. No real precautions were in force at defendant company's premises at all, and a dangerous fire might have occurred at any time if some one had thrown away a

match or cigarette end, for petrol vapour, being heavier than air, was liable to creep along the ground.

For the defendant company, who pleaded guilty, it was stated that the tank and pump had been installed for more than thirty years, before the Act making a licence obligatory came into force and the company had, in fact, never known of the need for a licence. Steps had been taken to carry out necessary repairs and also to apply for a licence. An intimation had been received that certain structural alterations would be necessary and these would be carried out.

A fine of £10 was imposed on the company.

COMMENT

The writer has thought fit to report this case in some detail for it may well be that there are other individuals and corporations of high repute in the country carrying on business where petrol tanks were installed before there was any necessity for a licence to be obtained and who may also be unaware of the statutory requirements. In view of the great potential danger, as well illustrated in the case reported above, the statutory provisions as to this matter cannot be too widely known.

Section 1 of the Act of 1928 prohibits, subject to certain exceptions, the keeping of petroleum spirit without a licence.

Section 23 of the Act defines "petroleum spirit" as such petroleum as when tested in the manner set forth in Part II of sch. 2 gives off an inflammable vapour at a temperature of less than 73° Fahrenheit.

Section 1 (1) of the Act excludes from the provisions of the Act petroleum spirit kept in separate vessels each containing not more than one pint, provided, the aggregate amount does not exceed three gallons. Section 1 (2) enacts that the occupier of any premises in which petroleum spirit is kept in contravention of the section shall be liable on summary conviction to a fine not exceeding £20 for every day upon which the contravention occurs or continues.

Section 2 provides that local authorities are to be entrusted with the granting of petroleum spirit licences and by s. 1 (3) the holder of a licence is liable on summary conviction to a fine not exceeding £20 for every day on which a contravention of any of the conditions of the licence occurs or continues.

Section 10 of the Act gave power to the Secretary of State to make Regulations as to the keeping and use of petroleum spirit by persons intending to use it in connexion with motor vehicles, motor boats, aircraft, etc., and the Petroleum Spirit (Motor Vehicles, &c.) Regulations, 1929, were issued accordingly.

(The writer is indebted to Mr. Hugh Astley, M.A., LL.B., Solicitor, of Oxford, for information in regard to this case.) R.L.H.

PENALTIES

Stonehaven Sheriff Court—July, 1952—(1) driving a car while under the influence of drink, (2) driving without due care and attention—two months' imprisonment. Disqualified from driving for ten years. Defendant, a sixty-five year old flockmaster, had three previous convictions for driving under the influence of drink.

West Bromwich—July, 1952—selling nylon stockings at an excessive price (two charges)—fined £2 10s. on each charge and to pay £5 5s. costs. Defendant, an Indian trader, sold a pair of stockings at 7s. 6d. which should have been sold at 6s. 2d. and another pair for 14s. which should have been sold for 12s. 11d. Defendant, who was convicted of a similar offence at the same court last year, said that he did not have his glasses on at the time and sold the stockings in error.

Bristol Quarter Sessions—July, 1952—(1) stealing a postal order from a postal packet (two charges), (2) obtaining money by a forged postal order (two charges)—two years' imprisonment. Defendant, a thirty-nine year old postman, asked for thirty-five other offences involving postal orders value about £41, to be taken into consideration. Defendant's wife pleaded guilty to two charges of obtaining money by means of forged postal orders and asked for thirty-three other offences to be taken into consideration. She was placed on probation for twelve months. Defendant's wife said at the hearing, speaking of her husband and the postal orders, "He forced me to sign them; he threatened to beat me."

Birmingham—July, 1952—failing to comply with a corporation notice requiring rubbish to be removed from a house—fined £3. Prosecution stated that there was two feet of rubbish and ashes in the rear rooms of the house—the accumulation of years.

REVIEWS

Green's Death Duties. Third Edition. By H. W. Hewitt. London : Butterworth & Co. (Publishers) Ltd. Price 75s. net.

This work, now in its third edition, has in earlier editions established its claim to be the leading textbook on its subject. The second edition was published in 1947, and the comparatively early appearance of the present edition has been made necessary by fairly substantial changes in the statute law. In the meantime Mr. Green has died. Mr. Hewitt, the new editor, is (like his predecessor) an officer of Inland Revenue; although the work is not in any sense an official publication, it may be assumed that it will be strong on the practical side.

The biggest single change in statute law since the last edition has been the abolition of legacy and succession duties, which occupied some two hundred pages in the previous edition. It is still desirable for those concerned to be acquainted with the pattern of those duties, and the relevant matter has been rearranged and compressed by Mr. Owen Swingland of Gray's Inn. On the other hand, relief from double taxation is becoming every year more important, with the increase of taxation in all countries and the making of new international conventions, and this topic has therefore had more space allotted to it.

So far as possible, Mr. Hewitt has retained the general shape of the book as settled by its original author; the treatment follows lines dictated by the order in which the practitioner, whether he is a lawyer or an accountant, is likely to wish to inform himself about different topics. Estate duty proper occupies the greater part of the book, beginning with an exposition of general principles. The personal aspects of the duty are then discussed, chapter by chapter: that is to say, the competency of the deceased person to dispose of property, and the different rules for accounting for death duties, with a very full explanation of exemptions and reliefs. The rates of duty are set out, with chapters on the method of valuation, adjustment, and so forth. We have already referred to relief from double taxation, which forms quite a substantial part of the book, and there are other matters to be considered in relation to persons living overseas, or properties situate overseas, and these are fully explained.

Three useful chapters follow upon special properties, and the position of members of the forces and civilians who are killed in war. The revised chapter on legacy and succession duties is appropriately linked with a chapter upon the practice of making a bequest "free of duty." All the relevant statutory provisions up to the end of 1951 are given, occupying some two hundred pages of the book, as are the repealed enactments about legacy and succession duty ranging from 1796 onward. Since these will now disappear from revised editions of the statutes, it will be useful, to persons still faced with problems upon those duties, to have the text of the old Acts available here.

An appendix of statutory rules and orders and statutory instruments gives the most important of these, in relation to the Lands Tribunal; the procedure of the courts; relief from double taxation, and the adaptation of enactments with reference to Ireland.

The work was not held back to see what happened in Parliament to the Finance Bill, 1952 (which contains some miscellaneous provisions about estate duty), since these are comparatively minor. An inset is however printed, calling attention to them, and they will be picked up in due course as cumulative supplements appear. The date at which the law is stated is January 1, 1952, but the Lands Tribunal (Amendment) Rules, 1951, were published too late for inclusion with other statutory instruments, and have been printed in an addendum. The preface calls attention to *re Lambton's Marriage Settlement* [1952] 1 All E.R. 162, and indicates how far this decision affects the text.

GREEN has from the first been an attractive book to handle, by reason of the good type and paper and the solid binding. These virtues are retained—no small virtues in a book which, for those regularly engaged in the administration of estates, must be in constant use. The extracts from statute law or from judgments of the courts when incorporated in the text are easily picked up, and the references (it is needless to say) are complete.

Where possible the author has allowed the judges to state in their own words just what they believed the law to be, in preference to paraphrasing judgments. Particular reference may perhaps be made to the very clear statement of rates of duty, with its cross-references to older rates (given in the appendix), and to the chapter upon incidence and adjustment of duty, which makes as plain as it can be made the difficult topic of how to treat estate duty as a testamentary expense. Death duty, like income tax, is a subject upon which it is never safe to prophesy, because it is one of the regular resources of a government in pecuniary difficulties, but the arrangement of *Green*, with its periodical supplements, ensures that it will be a good investment for as far ahead as can be foreseen.

A good proportion of our own readers are, perhaps, fortunate in not having to deal with death duties professionally, but even they are likely to be concerned from time to time as executors or trustees, and indeed as testators. There can, therefore, not be many members of the legal profession who can afford to dispense with this new edition.

Road Traffic Law. Compiled under the direction of James McConnach.
Published by : Mearns Publications, Majestic Buildings, 7-9 Union
Road, Aberdeen. Price 30s., plus postage.

This is the first post-war edition of a volume published first in 1936. The new edition is stated to be completely revised and rewritten, Spring, 1952. Its full title is "Road Traffic Law" with annotations, compiled and summarized by the training department, Aberdeen City Police, under the direction of James McConagh, Chief Constable, Aberdeen. It is stated in the preface that it was produced primarily with the requirements of the police in view, but is intended to provide guidance and help to all who are concerned with the law governing traffic on roads.

It is arranged in a convenient binder to make easy the insertion of amendments which will be published from time to time. The contents are arranged in four parts as follows:

1. Licensing and registration of vehicles.
2. Regulation of traffic and vehicles.
3. Goods vehicles.
4. Lights on vehicles.

4. *Legislation on Vehicles.*
A number of relevant cases are cited, including, as is to be expected, a good proportion of Scottish decisions. In this connexion we are puzzled by the reference to J.P.J. (*Justice of the Peace Journal*) as well as J.P.N. (*Justice of the Peace and Local Government Review* newspaper).

The general arrangement is convenient, and it is certainly most helpful to have collected together in this way the multitudinous provisions which are relevant to the subject. There are many useful cross-references and a reasonably full index. This does not set out to be a complete text-book, and one cannot expect to find, therefore, everything which such a book would contain. There is, for instance, no calling of attention to the right of a defendant in England to claim trial by jury (Summary Jurisdiction Act, 1879, s. 17) on certain charges. We think it is a pity that the schedules to the Vehicle (Excise) Act, 1949, are omitted. It is impossible to decide whether an offence under s. 13 has been committed without knowing what the relevant rates of duty are, and, moreover, one of the main features of the Act is that it does fix the appropriate rates. We recognize, however, that it is easy to say that this or that should have been included. In compiling such a book, if it is to be kept within reasonable compass, it is necessary to decide what can properly be omitted and we think that many readers will be very grateful to have in such a handy form these numerous statutes and regulations, and will be glad to take advantage of the chance of keeping the volume up-to-date by means of the amendments.

**Shaw's Guide to Income Tax Relating to Local Authorities. London :
Shaw & Sons, Ltd. Price 21s.**

Despite consolidation of the law relating to income tax in the Income Tax Act, 1952, it remains a complex subject, and within this complication the income of local authorities presents some special features. The present work gives a synopsis of all the schedules under which income tax is charged, with the rates of tax and available allowances, so far as these are of interest in the finance office of a local authority. The work comprises just over 130 pages, i.e., its arrangement is mainly tabular, and the subject matter is distinguished according to the income tax schedules and other main headings, e.g., concessional arrangements and "set off." These are thumb indexed down the side of the work. Quotation from the Act itself or from the Agreed Rules (obtainable from the Institute of Municipal Treasurers and Accountants) has been avoided, on the assumption that the finance offices of local authorities will always have these at hand. In this way the author and publishers have been able to keep down the bulk of the work, with some increase of clarity for what they have included. Such a work has obviously a purely specialized appeal, but for local government officers concerned with the tax upon local authorities (and upon their staffs) it seems to us well devised and likely to be of great utility.

The Howard Journal. Vol. VIII, No. 3. Published by and obtainable
from The Howard League for Penal Reform, Parliament Mansions,
Abbey Orchard Street, London, S.W.1. Price 2s. 6d.

Abbey Orchard Street, London, S.W.1. Price 2s. od.

Although this is the official organ of the Howard League, the *Journal* is a forum, and the opinions expressed in the articles and reviews do

not necessarily represent those of the Howard League. This avowed policy should disabuse the minds of any who may have thought that the Howard League stood for one point of view to the exclusion of argument. With much of what appears in the *Journal* there is abundant reason to agree. Since the Howard League stands for penal reform it must often criticize existing methods and conditions, but its criticisms are constructive, and effort and progress are recognized and appreciated. All this makes the *Howard Journal* pleasant and profitable reading.

The present number, as usual, contains contributions from a dozen or more writers on a variety of subjects, each writer being an authority upon his subject. In addition, more than a score of books, in great variety, are competently reviewed.

The list of articles is as follows :

Penal Administration in the Colonies, by Sir William Fitzgerald; *The Attendance Centre in England: The First Year's Work*, by Dr. John Spencer; *Report of the Prison Commissioners, 1950*, by Cicely M. Craven; *Crime in 1950*; *Note on the Criminal Statistics in England and Wales for 1950*, by A. M. Struthers; *The Attitude to the Prisoner*, by Dr. W. F. Roper; *The Examination of Offenders*, by Hugh J. Klare; *Probation in Germany*, by Dr. M. Grünhut; *The Day Hospital*, by Dr. Joshua Bierer; *Social Service in French Prisons*, by Jeanne Hertevent; *Sixth Report on the Work of the Children's Department*,

by Madeleine Robinson; *The Concept of Shared Responsibility in Borstal*, by Hugh Kenyon; *Punishments in Prisons and Borstals*, by George Benson; *Prediction in Criminology*, by Dr. T. C. N. Gibbens.

Old People's Club. A handbook for old and new clubs. Published by the National Council of Social Service for the National Old People's Welfare Committee, 26 Bedford Square, London, W.C.1. Price 1s. 6d.

This booklet gives much useful information as to the establishment and running of Old Peoples Clubs of which there are over 2,500, providing recreation and companionship for probably about 200,000 elderly men and women. A good club is a really live centre not for but of the club members. More clubs are however required to meet the needs of the 6½ million people of pensionable age. The information and suggestions contained in the booklet, based on the experience of existing clubs, should stimulate the interest of various types of organizations to take action in this connexion and will also help many of those who are already running clubs. Members of clubs associated with Old Peoples Welfare Committees are entitled to wear a forget-me-not emblem badge of which nearly 50,000 have been supplied during the last two years by the National Committee.

LOCAL AUTHORITIES AND THE PRESS

A war-time Army colleague, recently returned from Malaya, tells this story of a routine patrol organized after reports had been received that terrorists were in the neighbourhood. Dogs were used, and led the patrol for some way down a narrow path in the jungle. Suddenly there was a burst of firing. The patrol took cover. It is always difficult to tell where fire is coming from, but in this case the patrol had an easy time, as a woman's voice began to hurl a mixture of abuse, threats and bravado at them. With this guide to the enemy's whereabouts, the small patrol were able to take effective action, and it was not long before two wounded terrorists had surrendered. The woman communist did not surrender. She continued to shout her defiance. Eventually, after action with grenades, the firing and shouting stopped, and a member of the patrol was able to investigate. The woman communist was dead. With her was a fourteen year old boy. Both had obviously been severely wounded in the early stages of the encounter. My friend naturally admired the bravery of the woman and boy, but he told the story to remind me of the fanatical enthusiasm displayed by many communists. It was a factor to be reckoned with.

It may seem a far cry from the Malay jungle to a consideration of publicity for local government. But if democracy is to withstand the challenge of communism, it must be based upon something better than tacit and passive acceptance. The number of people who vote in local government elections is not high enough to allow for any feeling of complacency. In counties, there are still cases where contests are few and far between and where casual vacancies can hardly be filled. This is so in spite of the travelling and financial loss allowances introduced in 1948 to open to a wider range of people the possibility of membership of a local authority. It is quite untrue to say that people are not interested in local government: it is true to say that they are not *sufficiently* interested or knowledgeable. An Englishman may be pardoned for mistrusting enthusiasm in national or local affairs. On the other hand, there is no vessel more easily filled than an empty one. That Parliament accepts the importance of publicity for local government can be seen in the setting up in 1946 of the Consultative Committee to advise the Minister of Health, and the various associations of local authorities on this very topic.

INSPECTION OF MINUTES

Not unnaturally, the Consultative Committee spent a great deal of its time in considering the relations between local authorities and the Press. It is in practice upon newspapers that most

members of the public rely for their information about local government affairs. As a matter of law also, the importance of the Press's position cannot be overestimated, because the public have no legal rights to attend the meetings of local authorities, other than parish councils. Why the smallest of all the different types of authority should have been singled out in this way is a matter of conjecture. Even here, the rights of the public are not absolute, as the parish council can direct their exclusion (Local Government Act, 1933, sch. III, Part IV, para. 1 (4)). The average voter would surely be unpleasantly surprised if he knew that he was in law not entitled to attend a meeting of his town council, and that if he were admitted, his entry would rest upon nothing more substantial than the standing orders made by the Council. He is supposed, as a matter of legal theory, to keep himself abreast of local affairs by exercising his right to inspect and take copies of the minutes of proceedings of local authorities under s. 283 of the Local Government Act, 1933. It will cost the local government elector one shilling each time the right is exercised. In practice, the only people who come to inspect minutes are those with some contentious purpose. Most of the decided cases on s. 283 deal with instances where the elector wishing to inspect intended either to sue the local authority or some other person! In passing we may notice that the right of inspection extends to those minutes of a committee's proceedings which record the exercise of delegated powers.

ADMISSION OF THE PRESS

As will readily be seen, therefore, the legal position is but the parallel of the practical. In practice, the ordinary elector relies upon the newspapers for his knowledge of local authorities' proceedings. In law, he must do so, for his rights to information are limited. The Press, on the other hand, unlike the public, are entitled to be admitted, subject to certain restrictions, to the meetings of every local authority. This has been the case ever since Parliament passed the Local Authorities (Admission of the Press to Meetings) Act in 1908. This Act was the direct result of a case decided by Mr. Justice Kekewich in the same year, *Tenby Corporation v. Mason* [1908] 1 Ch. 457. Mr. Mason was the proprietor of the *Tenby Observer*, and the Corporation took exception to his alleged inability to report their proceedings accurately, and refused to admit him to their meetings. The Court upheld their right to do so. "I cannot," said the Judge, "deduce any intention on the part of the legislature that the public shall have a right to be admitted to the meetings."

Whilst this Act represented a great step forward at the time, there are two restrictions which substantially diminish its value. In the first place, a local authority may resolve at the meeting that the temporary exclusion of the Press is advisable in the public interest in view of the special nature of the business then being dealt with, or about to be dealt with. Secondly, the Press have no right to be admitted to the meetings of committees of local authorities, other than those which are specially mentioned in the Act of 1908, e.g., the education committee. Particularly in the case of large authorities, growing use is made of the power to delegate business to committees, and the proceedings at the Council meeting involve no more than the submission of a series of reports from committees in which a short *résumé* is given of the business transacted on the Council's behalf. It is not surprising, therefore, that the Consultative Committee recommended that where committees have delegated powers, more authority should be given for information to be supplied to the Press of decisions of the committee. In practice, the exclusion of the Press is more often achieved by moving that the council "go into committee" than in the way envisaged in the Act.

PRESS COMMENT BEFORE MEETINGS

Another factor which limits the usefulness of the 1908 Act is the modern system of working from a printed agenda, so that very little is said by members in Council, except by way of comment or explanation of the printed report. Unless these agenda and reports are available to the Press, the proceedings will often be meaningless. It is often a point of honour amongst chairmen to say as little as possible about the report of their committee, and from the Press point of view this gives an impersonal and lifeless air to the whole proceedings. This is particularly so in matters which have no political flavour or potentialities. When the Consultative Committee examined the question of advance distribution of the agenda, over 100 local authorities indicated that the agenda and accompanying papers were sent to the Press in advance of the meeting. There was, however, a sharp division of opinion as to whether there should be an embargo on Press comment before the meeting. Many councils felt unable to accept the Consultative Committee's recommendation that there should be no such embargo.

No doubt some part of this desire to muzzle the Press until after a decision has been taken is due to perfectly understandable

human frailties. Just as the enthusiasms of a conscientious and inquiring member can interrupt the even tenor of an official's way, so can the Press interfere with the member's settled plans and the state of being master in his own house. It is human to resent or to try and curb the activities of the offender. The reasons for mistrust of the Press by some authorities must, however, be sought as well in another sphere. Mr. A. A. McLoughlin, writing in a recent issue of *The Journal of the Institute of Journalists* on the need for a full and trusting partnership of the Press and Local Authorities, gets very near the mark in the following passage :

"Doors closed to the Press, mistrust, secrecy and the general lack of co-operation in certain local government circles are due in the main to suspicion and misunderstanding as well as to lack of knowledge of the true function and value of the Press. As to how far the Press itself may have contributed to this situation I do not know, but it is true to say that many newspapers neither understand the complexities of modern local government nor the difficulties under which the authorities have to work.

"The editor of the newspaper from which I quoted earlier on has the right idea in this matter, for he trains his reporters in local government and wherever possible sends them on a short course of instruction."

Is there not here some scope for co-operation by local authorities? They might be able to assist hard-pressed editors by organizing short courses of instruction. Such a course might allow the novices to sit through a few committees without reporting them, and generally give them the background without which intelligent reporting is impossible. No doubt the editors would say that the public gets what it wants to read. In this field is there not more scope for instruction in schools? The growing generation could and should know more of the workings of local authorities. Whilst senior schoolchildren often attend Assizes, how often are arrangements made for them to hear Council debates?

Local government cannot function without public interest. Public interest can only be maintained if criticism is accepted. With more thought and effort, local authorities could themselves ensure that the criticism was intelligent and useful. To say this is not to deny that the Press could usefully search its own heart to find out how far lack of co-operation has been induced by the shortcomings of the Press itself.

"ONLOOKER."

FORBIDDEN FRUIT

A report published in *The Times* from its New York correspondent shows that the American Courts do not shrink from making revolutionary extensions to accepted principles of law when occasion demands. The report also indicates an intimate acquaintance and a profound sympathy, on the part of the Judiciary, with the transatlantic habit of adopting linguistic neologisms into popular usage, and a willingness to take judicial notice thereof, which at first sight seems to go considerably beyond the conservative attitude of our Courts.

A corporal in the United States Army, recently returned from Korea, purchased a second-hand car. It says much for journalistic restraint that the make of the vehicle is not mentioned, and that no hint is dropped which would enable one even to hazard a guess. The car's performance, or lack of performance, seems to have been (to put the matter in the mildest terms) unsatisfactory; so much so that the unfortunate owner, in attempting a description by word of mouth, rapidly found his stock of expletives exhausted. Such a state of affairs, in the case of a non-commissioned officer of the American

Forces, is more vividly indicative of the state and condition of the vehicle than any technical specification could possibly be, and general sympathy will be extended to him, by all car-owners, in the step he took to manifest his dissatisfaction in an overt and permanent manner. This was to paint a picture of "a number of lemons on his motor-car, as an acid comment on its performance." For the benefit of the uninformed it should be explained that the word "lemon," in the American vernacular, is an objurgative epithet, equivalent, as nearly as may be, to the English slang-term "dud." The plurality of the pictorial symbol was no doubt intended to add emphasis to vituperation.

Unfortunately for the gallant soldier there is in force in the City of Washington, D.C.—that diplomatic centre where high-powered, luxurious limousines abound—a local Regulation wisely enacted for the purpose of preventing breaches of the municipal peace. This Regulation provides that no vehicle shall be held up to ridicule by sign or letter; and the corporal found himself charged before the Court with a breach of its

provisions. The defence was the obvious one that a man may do as he likes with his own ; but the Court, applying and apparently extending the maxim *sic utere tuo ut alienum non laedas*, held that the Regulation covered any car, including the defendant's own, and convicted him of the offence.

The tort of trade libel, or slander of goods, is not of course unknown to our law, though actual damage must be proved if the plaintiff is to recover. What is interesting in this American case is the implication that the painting of an offensive symbol by the defendant on his own car is an act defamatory of those by whom it was manufactured. An English lawyer may be pardoned for expressing the view that the damage, if any, would be too remote to be actionable in an English civil court and that the facts would not, in this country, justify a prosecution for criminal libel. Perhaps, however, there is greater likelihood of a breach of the peace being occasioned among a car-minded population like that of the United States, where a vehicle is ordinarily "scrapped" and a new one bought, as soon as it begins to show signs of wear.

That a painting may be as defamatory as the written word is nothing new in our law ; we have, for instance, the authority of Lopes, L.J., in *Monson v. Tussaud's, Ltd.* [1894] 1 Q.B. 671 :

"Libels are generally in writing or in print ; but this is not necessary ; the defamatory matter may be conveyed in some other permanent form. For instance, a statue, a caricature, an effigy, chalk marks on a wall, signs or pictures, may constitute a libel."

That was a case, as is well known, where a waxwork image of the plaintiff, exhibited in the Chamber of Horrors at Mme. Tussaud's was held to be defamatory. In *Talley v. Fry & Sons, Ltd.* [1931] A.C. 333, the representation in an advertisement of an amateur golfer, with a bar of the defendant's chocolate protruding from his pocket, was held capable of the defamatory meaning that the plaintiff was exploiting his golfing proficiency for advertising purposes, in a manner unworthy of his amateur status. And *Youssouff v. Metro-Goldwyn-Mayer-Pictures, Ltd.* (1934) 50 T.L.R. 581, establishes that the implication, in a cinematograph film, that the plaintiff has been raped is defamatory of her "as tending to cause her to be shunned and avoided, although it involves no moral turpitude on her part."

But the more interesting point in the American case before us is the ready acceptance by the Court of an innuendo intelligible only by reference to vulgar usage. As might be expected, there is no lack of authority on the subject in English law ; the general principle has been laid down that "it may be necessary, or unnecessary, to explain slang and local words and expressions according as ordinary persons at the present day would understand the words sued on, without explanation of the surrounding circumstances or extrinsic facts, to be defamatory." The test, in short, is whether the expression complained of, and the meaning attached to it, is one of popular understanding.

A little research among the earlier English Reports reveals the use of slang expressions (held to be defamatory) every whit as picturesque as the "lemons" in the recent American case. It is unnecessary to quote references ; the curious reader will find them conveniently grouped in *Halsbury* and the text-books. In two cases in 1608-9 it was held that it was defamatory to say to a man "Thou are a healer of felons"—for "healer of felony is a word known in the County of Devon to be 'concealer or hider of felony' ; as in the County of York to say to one 'Thou hast strained a mare' will bear action, for it is vulgarly taken 'to steal a mare'." In 1616 a plaintiff recovered damages because the defendant had called him an "idonor"—a local expression for "perjurer." Among the victims of such epithets servants of the law (as is only to be expected)

seem to be singled out for special attention. "He is a paifry lawyer and hath as much law as a jack-an-ape" was held actionable in 1594 ; "daffa-down-dilly," in 1634, because it signifies an "ambidexter"—one who takes money from both sides. In 1631 it was held libellous to describe certain justices as "half-eared," and in 1661 the expression complained of was "beetle-headed." In a case in 1865 the defendant had written of a solicitor that "he outdoes Messrs. Quirk, Gammon and Snap." In 1861 the headline to a report "How Lawyer Bishop treats his clients" was held to be defamatory, and in the well known case of *Boydell v. Jones*, (1838) 4 M. & W. 446, even the description "An honest lawyer," used ironically, was decided, in its context, to be libellous.

The doctors, too, are popular victims. "Quack-salver," in 1628 ; "empirc" and "mountebank" in 1636, have been held to be libellous, and in 1831 the equivocal expression "physician extraordinary to several ladies of distinction."

Nevertheless, the wary practitioner will continue to advise his clients that actions for defamation are full of unexpected traps, and that the jury's attitude to the innuendo complained of is notoriously uncertain. To the plaintiff's anxious inquiry as to his prospects of success the cautious solicitor will in most cases feel bound to reply, in good English slang, that "the answer is a lemon."

A.L.P.

PERSONALIA

APPOINTMENTS

Mr. T. A. Bird of Leamington has been appointed deputy city treasurer of York.

Mr. D. J. Hodges, probation officer at Margate, has been appointed senior probation officer to the Middlesex combined probation area.

Dr. M. G. L. Lucas, M.B., has been appointed coroner of the borough of Bedford and the northern district of Bedfordshire, in succession to the late Dr. R. G. Rose.

RETIREMENT

Mr. W. Archibald Boyes, clerk to the justices for the Barnet division of Hertfordshire and the South Mimms division of Middlesex since 1917, retired recently. He succeeded his father who had held the position since 1881. Mr. Boyes is a former vice-president of the Justices' Clerks' Society. Mr. Walter Wright is to succeed him as clerk to the Barnet magistrates, and Mr. Francis H. Parr has been appointed clerk to the South Mimms justices.

NOTICE

The Merseyside Branch of the Magistrates' Association and the North Western Branch of the National Association of Probation Officers are holding a Joint Conference at the Lecture Theatre of the Walker Art Gallery, William Brown Street, Liverpool, on Wednesday, September 17, 1952. Mr. John Watson is to speak on the "Practice and Procedure in Juvenile Courts", Dr. F. H. Brisby is to speak on "The Psychology of the Criminal", and Mr. Frank Dawtry is to speak on "Probation in Modern Times". Admission for the Conference is 2s. 6d.

SIGHS FROM THE CELLS. I.

As I gaze at the dawn through iron-barred casements
I ponder the folly of "voluntary statements."

J.B.B.

SIGHS FROM THE CELLS. II.

When I said I had nothing to hide
I didn't know the witness had died.

J.B.B.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Acquisition of Land—Land acquired for specific purpose—Use or sale for other purposes.

In 1940, in consideration of a small annuity for her life, X who has since died conveyed a field to Y parish council to hold the same in fee simple for the purposes of public pleasure grounds. There is no covenant by Y so to use it, but only to pay the annuity. In fact it has been let to a farmer. They have excellent playing fields elsewhere. Y and the district council agree that it would be a good housing site. Y suggests the latter should make a compulsory purchase order.

1. In the absence of a covenant by Y, has the limitation in the habendum any binding effect?
2. Would a compulsory purchase order, if confirmed by the Minister, override the limitation?
3. Is there any other power whereby without that procedure the Minister could override the limitation?
4. Would the consent of the Charity Commissioners be necessary?

P. EQUES.

Answer.

1. The transaction appears to have been an acquisition of land under s. 167 of the Local Government Act, 1933, for the purpose of the functions of the council under the Local Government Act, 1894, s. 8 (1) (b). On the information before us, its letting for other purposes seems to have been irregular.

2. and 3. Compulsory purchase by the district council would relieve them of whatever risk there is (small in any event on the facts before us) of an attempt to enforce use of the land in terms of X's conveyance. But a simpler plan would be to sell to the district council, with the required consents, under s. 170 of the Local Government Act, 1933.

4. No.

2.—Building Materials and Housing Act, 1945—Housing Act, 1949—Limitation of purchase price—Increase to allow for development charge, repairs, and improvements.

In March, 1949, A erected a boat and sail store (with flat over) on land owned by him, under a licence granted by the local authority which imposed conditions limiting the price for which the property could be sold or the rent at which it could be let. The conditions were imposed for a period of four years from the passing of the Act of 1945. Such period was extended to eight years under s. 43 of the Housing Act, 1949. A is proposing to dispose of the property and wishes to know whether he may sell for a price in excess of the controlled price providing that such excess is limited to (a) the development charge paid by A to the Central Land Board, subsequent to the licence in respect of the buildings erected by him, and (b) various sums expended by A to date for repairs and improvements carried out by him from the date of the licence to the present time.

If your answer is in the negative, will you please advise us whether, in your opinion, A might apply under s. 43 (5) of the Housing Act, 1949, or otherwise to the local authority to increase the controlled figure so as to include the items referred to at (a) and (b) above.

F.A.Z.

Answer.

In our opinion, A may not sell for a price in excess of the controlled price in respect of the two sums you specify. We think it would be open to A to apply to the local authority under s. 43 (5) of the Housing Act, 1949, to increase the limited figure so as to include the sums expended for repairs and improvements, but doubtful whether an application to include the development charge could be entertained.

3.—Husband and Wife—Maintenance agreement—Subsequent proceedings against husband under National Assistance Act, 1948.

A, a married woman, and her husband B, separated in 1936. Under a private agreement B agrees to pay his wife 22s. 6d. weekly. This payment has been made regularly.

In 1951 the wife A is allowed assistance by the National Assistance Board to the amount of £11, and a weekly allowance of 5s.

The National Assistance Board has issued summonses against B for recovery of the debt of £11, under s. 42 of the National Assistance Act, 1948, and for an order for the weekly contribution of 5s., under s. 43 of the same Act.

On behalf of the husband it is submitted that the justices have no power to make the orders asked for, being estopped by the agreement.

Cases quoted were *Llewellyn v. Turner* (1922) 126 L.T. p. 526, and the case of *Aldritt v. Aldritt* heard in the Probate Division on June 12, 1951, unreported.

Please advise if the orders asked for can be made, and reasons in support.

S.L.W.

Answer.

The case of *Aldritt v. Aldritt, supra*, emphasizes the difference between the husband's liability under the Summary Jurisdiction (Separation and Maintenance) Acts and that of either spouse under the National Assistance Act, but we find nothing in that case to suggest that the existence of an agreement is a bar to proceedings under the National Assistance Act. The case of *Llewellyn v. Turner, supra*, seems rather to support the proposition that the proposed order can be made. In our opinion therefore the justices have jurisdiction.

4.—Licensing—Licence holder suffering from infectious disease—What action possible.

•I shall be grateful if you will kindly let me have your opinion on the following point which has arisen.

A, who is the holder of a justices' licence, is suffering from very active pulmonary tuberculosis, and serves in the bar every day. He has refused to undergo medical treatment, and I am told that there is grave danger of infection.

Tuberculosis is not included in the definition of a "notifiable disease" under s. 343 of the Public Health Act, 1936, but I understand that the Minister of Health has made Regulations under the Act, requiring notification of the disease. These Regulations came into force on May 1, 1952.

My concern is whether anything can be done as far as the licence is in the question, so as to prevent A from coming into contact with the public. Your valued opinion will be greatly appreciated.

NUNE.

Answer.

There is nothing in licensing law which can be construed as an enabling power to take any immediate action, although objection may be made when the licence next comes up for renewal on the ground that the licence-holder, for reasons of health, is not a fit person to be the holder of the licence.

Inasmuch as the man is not undergoing medical treatment, there may be a question whether the diagnosis of "very active pulmonary tuberculosis" is correct, or, if correct, whether there is grave danger of infection. The only immediate practical step that we can recommend is that the matter shall be reported to the Medical Officer of Health for investigation and, if he thinks fit, for action to be taken at his instance. The case may be a proper one for an application to be made to the court for the removal of the man to hospital under s. 172 of the Public Health Act, 1936.

5.—Licensing—Occasional licence—Whether may be granted in respect of premises registered as a club.

An application was made to the magistrates, by a local licensee, for an occasional licence to sell intoxicating liquor at a residential golf club house, during a dinner and dance held by a certain organization. The whole of the premises are registered as a licensed club.

The secretary informed the magistrates that there would be a separate bar so that the persons attending the function would not come in contact with members of the club. The application was granted.

Inasmuch as the whole of the premises concerned are registered as a licensed club, were the magistrates justified in granting the occasional licence permitting sale and consumption to persons attending the private function and not being members of the club? NESS.

Answer.

In our opinion, the justices were not wrong in law in consenting to the grant of an occasional licence in the circumstances outlined.

See answer to a Practical Point at 114 J.P.N. 392.

6.—Local Government—Procedure—Constitution of Committees.

I note that in the article headed "Power to Prosecute" at pp. 183-184, *ante*, it is suggested that a local authority may delegate the duty of selecting cases for prosecution to a committee of two members. From a perusal of dictionary definitions it is clear that a committee consists of a body of persons and that one person can in no circumstances be a committee. Section 96 (2) of the Local Government Act, 1933, provides that the person presiding at a meeting of a committee shall have a second or casting vote and hence in a committee consisting of two persons the chairman's decision will in all cases prevail,

as he will be in a position to outvote his colleague in the event of any difference of opinion. Furthermore, the appointment of a chairman in the first instance would prove impossible if there were any difference of opinion, as neither of the two members would be entitled at that stage to exercise a casting vote. In view of the above-mentioned considerations, I would respectfully suggest that, in practice, the numbers of members and the quorum of a committee appointed under the Local Government Act, 1933, should not be less than three and, further, that this might even be held, as a matter of inference from the general intention of the statute, to be a requirement in law.

C.C.C.

Answer.

We feel confident that there is no such inference of law, ousting the ordinary rule that two persons are needed to constitute a meeting. The difficulty suggested in this query about the appointment of a chairman can be avoided by the council's appointing the chairman. We agree that for the reason given, and also because with a committee of two a single absence destroys the quorum, it is better to appoint three. The matter is one of practical convenience—whether three can be found to give the time.

7.—Road Traffic Acts—Careless driving—No mention made of endorsement of licence—Can this omission subsequently be remedied?

On charges of dangerous and careless driving a defendant was convicted of careless driving, but no mention of endorsement of his licence was made by anyone and the accused was not asked to produce his licence at the court although he had brought it with him as requested by a notice on the summons. Can endorsement now be made on the defendant's licence in view of the fact that, in spite of s. 5 of the Road Traffic Act, 1934, no order was made by the court, i.e., is the endorsement automatic, or must the court actually make the order. If the latter are they now *functi officio*?

Answer.

The failure to deal with the endorsement could be the subject of a case stated at the request of the prosecution. On conviction under s. 12 endorsement must be ordered unless special reasons are found. The question of special reasons is a matter of law. If the summary court makes no order and does not find special reasons the High Court can send the case back to them for them to repair the omission.

If there is no appeal we think the justices are *functi officio* and can do nothing more. The endorsement is not automatic.

It is sometimes argued that an endorsement is a "disability" (Criminal Justice Act, 1948, s. 12 (2)) and that following conditional discharge endorsement cannot be ordered. We think this view is wrong.

8.—Road Traffic Acts—Starting engine by pushing car in gear—Engine starts and car runs away—Driver left behind—Offence?

I should be grateful for your advice on the following:

A motor van driver was attempting to start the engine of his vehicle by switching on the engine, engaging the gears, and pushing the vehicle forward. The engine started up and the vehicle moved forward gathering speed. The driver, who had been pushing the vehicle from the rear, attempted to get into the driving seat so as to control the vehicle, but he fell on to the road and the van continued on. Eventually it collided with a shop front.

It was desired to charge the driver under reg. 82 (2) of the Motor Vehicles (Construction and Use) Regulations, 1947, but the wording "No person while actually driving, etc." would appear to preclude this, particularly in view of subs. (1) and (3) which start "No person in charge of a motor vehicle . . ." It appears that as the driver on this occasion was not even on the vehicle, he cannot be said to be "actually driving." Do you agree?

Reference has been made to s. 78 of the Highway Act, 1835. A footnote thereto (in *Stone*) reads "A motor vehicle or trailer is a carriage." It further refers to s. 31 of the Road Traffic Act, 1930, which gives authority for this proposition. I think, therefore, that a charge should be framed as follows: "For that you being the driver and owner of a certain carriage, namely, a motor van, on a certain highway called . . . were negligently at such a distance from such carriage, whilst the same was passing upon the said highway, that you could not have and had not the direction and government of same." Do you agree?

Answer.

We are by no means convinced that a driver who engages the gear of his car and pushes it with the ignition switched on is not "actually driving" that vehicle, but we realize that the matter is not free from doubt. (*Cf. Shimmel v. Fisher* [1951] 2 All E.R. 672).

We think that a charge lies under s. 78 of the Highways Act, 1835, but should prefer to allege being "in such a situation" rather than "at such a distance from the carriage." He was, in fact, so close to it that he could push it, and therefore the other wording may be thought more appropriate.

J.A.M.

9.—Section 296, Public Health Act, 1936, s. 296—Building byelaws—Limitation period.

Byelaw 123 of the council's building byelaws requires that "a person who intends to erect a building to which the foregoing byelaws relate shall give to the council notice in writing of his intention," and specifies the type of information required. Instances occur where a building has been erected perhaps a year ago without any notice given, and by virtue of the situation of the building this period of delay has occurred before the council's attention is drawn to the contravention of the byelaws. Section 296 of the Public Health Act, 1936, provides that all offences under this Act may be prosecuted under the Summary Jurisdiction Acts, the limitation period for which requires that a complaint must be laid within six calendar months from the time that the matter of such complaint arose.

The phrase "a person who" is not defined and might apply to either the property owner, the builder or the architect. I should value your opinion on the following points:

(1) Can proceedings be taken summarily by the council for breach of their building byelaws in this respect where the erection of the building has been commenced more than six months before it will be possible to lay the complaint?

(2) If this may be regarded as a continuing offence, from what point of time, if any, does the limitation period run?

(3) Can the council take proceedings against one or all three of the parties concerned, namely the owner, the contractor, and the architect?

F.E.A.

Answer.

(1) In our opinion, no. We think that the matter of complaint arises in such a case when the act of erection of the building commences and there has been a failure to give the requisite notice. The first act in the course of erection is clearly the overt act manifesting the intention to which the byelaw relates and the offence is complete when there has been no notice of such intention.

(2) We do not think this can be regarded as a continuing offence.

(3) We think that it is open to the council to take proceedings against all three who combine in their intention to erect a building.

10.—Town and Country Planning Acts—Existing use—Proviso to s. 53 of Act of 1932—Interim development consent.

In October, 1937, the X corporation approved certain plans for the conversion into shops of two dwellinghouses and consent to develop under the Town and Country Planning (General Interim Development) Order, 1933, and the Restriction of Ribbon Development Act, 1935, was given.

From time to time the property passed to various owners and was unoccupied and dilapidated from the date of consent to development until March, 1947, when Y the present owner commenced to use the dwellinghouses as shops. The conversion which was approved in October, 1937, has never been carried out and internal alterations which would not require planning permission were executed so that the premises could be used as shops.

In March, 1946, the then owner, through his architect, applied to X corporation for a "change of user," and pointed out that the property then consisted of two empty dilapidated dwellinghouses and the owner intended to convert them into shops.

In June, 1946, X corporation served upon the owner a notice of intention to revoke the permission granted in October, 1937, but did not carry on with the proceedings.

On June 29, 1951, X corporation served on Y enforcement notices to discontinue the use for the purposes of retail shops of the land being the site of the two dwellinghouses, under ss. 23 and 75 of the Town and Country Planning Act, 1947, and Y appealed to the court of summary jurisdiction.

Your opinion is sought on the following points, viz.:

1. Whether or not the proviso to the definition of existing use contained in s. 53 of the Town and Country Planning Act, 1932, applies?

2. Whether by implication the consent which was given before July 21, 1943, has lapsed—s. 77 (1) Town and Country Planning Act, 1947; and

3. Your views generally as to the position of the appellant.

F.C.T.X.

Answer.

1. In our view, proviso (i) to s. 53 of the Act of 1932 applies.

2. The consent which was given in 1932 was to conversion into shops of two dwellinghouses and we are instructed that this conversion was never carried out. In our view, therefore, this question does not arise. We do not think that s. 77 of the Act of 1947 has any bearing on this question, as it relates to development authorized under an interim development order after July 21, 1943.

3. Y must seek and obtain permission for development under Part III of the Act.

CITY OF BRADFORD

Assistant Clerk to the Justices

APPLICATIONS are invited for the above whole-time appointment at a salary of £670/£735. (Grade A.P.T. VI). Applicants should have had extensive experience of the duties of an assistant to a Justices' Clerk including taking of depositions and issuing process and be able to act as clerk to a fourth Court sitting daily. The appointment is superannuable and the successful applicant will be required to pass a medical examination.

Applications, stating age, qualifications and magisterial experience, together with copies of not more than three recent testimonials, should be sent to the undersigned not later than September 6, 1952.

FRANK OWENS,
Clerk to the Justices.

Magistrates' Clerk's Office,
Town Hall, Bradford.

URBAN DISTRICT OF ELLESMORE PORT

Appointment of Unadmitted Legal Assistants

APPLICATIONS are invited for the following posts on the permanent establishment of the Department of the Clerk of the Council :

- (1) **Legal Assistant** (unadmitted), at a commencing salary of £555 per annum increasing by three annual increments of £15 (the first of such increments to become due in April, 1953) to a maximum salary of £600 per annum, in accordance with Grade IV of the A.P.T. Division of the National Salary Scales.
- (2) **Junior Legal Assistant** (unadmitted), at a commencing salary of £465 per annum increasing by three annual increments of £15 (the first of such increments to become due in April, 1953) to a maximum salary of £510 per annum in accordance with Grade I of the A.P.T. Division of the National Salary Scales.

Applicants for both posts should have had a sound conveyancing and general legal experience in the Department of a Clerk of a Local Authority or in the office of a solicitor or firm of solicitors in private practice. The persons appointed will be engaged mainly on conveyancing but will also be expected to assist in the general legal work of the department.

The appointments will be subject to the Scheme of Conditions of Service of the National Joint Council for Local Authorities Administrative, Professional, Technical and Clerical Services ; to the Local Government Superannuation Act, 1937 ; and to the successful applicants passing medical examinations.

Applications, stating age, giving details of education and experience in previous appointments, and accompanied by copies of two recent testimonials, must reach the undersigned by not later than Saturday, September 13, 1952.

Envelopes should be appropriately endorsed "Legal Assistant" or "Junior Legal Assistant."

Canvassing in any form will disqualify.

P. J. HODGES,
Clerk of the Council.

Council Offices,
Whitby Hall, Ellesmere Port.
August 25, 1952.

WORCESTERSHIRE

Whole-time Male Probation Officer

CONDITIONS and salary in accordance with Probation Rules, 1949/1952. The successful applicant will be required to pass a medical examination. Age limits 23 to 40 years, except for serving officers or persons otherwise qualifying for appointment under the Probation Rules.

The successful applicant will be attached, in the first instance, to the Stourbridge Petty Sessional Division and the provision of a motor-car, for which an allowance in accordance with the County Council Scale will be paid, will be desirable but not essential.

Applications, stating age, qualifications and experience, together with the names and addresses of three referees, to be received by the undersigned by September 20, 1952.

W. R. SCURFIELD,
Clerk of the Peace.

Shirehall,
Worcester (B.60).

**KENDAL MAGISTRATES' OFFICE
(TWO DIVISIONS)**

Whole-time Assistant

APPLICATIONS are invited for the appointment of whole-time Male Assistant. Candidates should be competent typists with experience in the issuing of process, the keeping of accounts of Fines and Fees, and the preparation of Returns. As from April 1, 1953, the person appointed will be transferred as an established officer to the staff of the Magistrates' Courts' Committee for the County ; the salary of £500 per annum will then be a subject for inquiry as to adequacy—it will not be reduced.

Applications, with names of two referees as to fitness, should reach me on or before September 6, 1952.

ERNEST TEMPLE,
Clerk to the Justices.

St. George's Chambers,
Kendal.
August 21, 1952.

BOROUGH OF WIDNES

Appointment of Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor on the permanent establishment at a salary within A.P.T. Grades VI—VII.

The commencing salary will be fixed having regard to the qualifications and experience of the successful candidate.

The appointment is subject to the Local Government Superannuation Act, 1937, and to the National Scheme of Conditions of Service as adopted by the Council and is terminable by one month's notice. The successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, and giving the names of two persons to whom reference can be made, must be delivered to the undersigned not later than Wednesday, September 10, 1952.

Canvassing, directly or indirectly, will disqualify.

FRANK HOWARTH,

Town Clerk.

Town Hall,
Widnes.
August 16, 1952.

**PROBATION AREA FOR THE CITY
OF EDINBURGH AND THE
COUNTIES OF EAST LoTHIAN,
MIDLoTHIAN AND PEEBLES**

APPLICATIONS are invited for the appointment of a full-time salaried Female Probation Officer. Applicants must have attained the age of twenty-three and have not attained the age of forty-five and have had experience of similar work. The person selected for appointment will require to be medically examined as to her physical fitness. The appointment will be in accordance with the Probation (Scotland) Rules, 1951, and within the salaries laid down, viz., £320 to £500 per annum with placing according to age and/or service in probation work. Applications, stating qualification and experience, and with references, must be lodged with the undersigned not later than September 22.

J. STORRAR,
Clerk to the Probation Committee.

City Chambers,
Edinburgh.

WEST NORFOLK PROBATION AREA

Appointment of Whole-time Woman Probation Officer

THE West Norfolk Probation Area Committee invites applications for the appointment of a Woman Probation Officer, to be stationed at King's Lynn, whose services will be assigned to the Borough of King's Lynn and to several County Petty Sessional Divisions. The person appointed will be required to provide a motor-car for use in connexion with her duties, for which use travelling allowances, in accordance with the Scheme of the National Joint Council for Local Authorities' A.P.T. and Clerical Services, will be payable.

The appointment and salary will be in accordance with the Probation Rules and the selected candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with the names and addresses of two persons to whom reference can be made, should be received by the undersigned not later than September 6, 1952.

H. OSWALD BROWN,
Secretary to the West Norfolk Probation Area Committee.

County Offices,
Thorpe Road, Norwich.

SURREY PROBATION AREA

Appointment of Full-time Male Probation Officers

APPLICATIONS are invited for the above appointments in the Surrey Probation Area.

The appointments will be subject to the Probation Rules, and the salary will be in accordance with those Rules, subject to superannuation deductions.

Written applications, with the names and addresses of not more than three persons to whom reference may be made, should be submitted not later than September 15, 1952. Forms of application may be obtained from the undersigned.

E. GRAHAM,
Secretary of the Surrey Probation Area Committee.

County Hall,
Kingston-upon-Thames.

CITY OF COVENTRY**Appointment of Full-time Female Probation Officer**

APPLICATIONS are invited from persons who have experience and/or training as a probation officer or social welfare worker for the above appointment.

Candidates must be not less than twenty-three, nor more than forty years of age, except in the case of a serving probation officer.

The appointment will be subject to the Probation Rules and the salary in accordance with the scales prescribed by those Rules. The salary will be subject to superannuation deductions and the successful applicant will be required to undergo a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than three recent testimonials, must reach the undersigned not later than September 30 next.

A. N. MURDOCH,
Secretary of the Probation Committee.

St. Mary's Hall,
Coventry.

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Second Edition

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By A. C. L. MORRISON, C.B.E.
Formerly Senior Chief Clerk of the
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APPLICATIONS are invited from persons, qualified in accordance with the above Act, for the whole-time appointment of Clerk to the Justices for a combined area consisting of the Borough of Lowestoft and the Petty Sessional Divisions of Beccles, Bungay, Blything and Mutford and Lothingland. Office accommodation, with a central office in Lowestoft and an adequate staff, will be provided by the Committee. The Clerk will be required to take up his duties on or about April 1, 1953. The combined area has a population of 90,000 to 100,000. (1951 figures not yet available). The personal salary paid will be in accordance with the scales to be settled arising out of the negotiations now in progress concerning Justices' Clerks' salaries. Travelling and other expenses will be paid. The appointment will be permanent and superannuable in accordance with the above Act. Applications, giving full particulars of age, qualifications and experience, and the names of two referees, should be made to me not later than September 30, 1952.

G. C. LIGHTFOOT,
Clerk of the East Suffolk Magistrates'
Courts Committee.

County Hall,
Ipswich.

TO BE PUBLISHED SEPTEMBER 9.

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By A. S. WISDOM, *Solicitor*

This booklet is a summary of byelaw making powers possessed by local authorities. Sixty-nine such powers are listed, and of these approximately half are for byelaws under the Public Health Acts, twenty-three refer to municipal or public lands or property, fifteen relate to streets and traffic, and eight are concerned with open spaces.

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